Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
Rome: Typis Polyglottis Vaticanis, Vol. 9 (1876)

Note on this translation. This English text was produced by a machine-assisted translation pipeline from an OCR transcription of the source Latin edition. The draft translation was made by a specialised translation model, assisted by a dedicated ecclesiastical-Latin knowledge base which supplied Douay–Rheims wording for Scripture quotations and verified place-names and terminology. It is an unofficial reading aid and has *not* undergone formal scholarly revision; occasional errors will remain, particularly in the dense citation apparatus. Marginal references of the form [*Latin ed. p. N*] indicate the corresponding page of the source edition, for alignment with the original scans. Blank leaves and unreadable pages have been omitted.

[*Latin ed. p. 1*]

A COMPENDIUM, CONVENIENTLY ARRANGED AND ILLUSTRATED, PREPARED WITH DILIGENCE AND CARE BY JOSEPH PENNACCHI AND VICTORE PIAZZESI, DOCTORS OF BOTH LAWS: Namely, legal and more solemn acts emanating directly from the Supreme Roman Pontiff: acts among those which can be made public by law, whether they are Decrees, or Instructions, or Responses, or other similar matters; especially, expositions and resolutions of cases from various Sacred Congregations of Cardinals, contributing to the accurate understanding and observance of ecclesiastical law, carefully compiled in a compendium: and finally, other legal matters, by which those things which may present difficulty in the aforementioned acts are suitably explained, or which further contribute to the knowledge of existing law: for the benefit of those who diligently study the laws of the Church, and who labor diligently in the governance of the Christian flock, or in cultivating the Lord's vineyard. Volume IX, EDITION THIRD, ROME, FROM THE VATICAN POLYGLOT PRINTING PRESS, MCMXV. Reprinted with the permission of Libreria Editrice Vaticana. JOHNSON REPRINT CORPORATION, 111 Fifth Avenue, New York, N. Y. 10003. JOHNSON REPRINT COMPANY LTD., Berkeley Square House, London, W. 1.

[*Latin ed. p. 4*]

THE RIGHT OF PROPERTY IS DEFENDED. First reprint, 1968, Johnson Reprint Corporation. Printed in the United States of America.

[*Latin ed. p. 5*]

FROM THE VATICAN, Apostolic Letters from His Holiness Pope Pius IX to the Duke of Salviati, and others from the Italian Catholic Association.

TO OUR BELOVED SONS, THE DUKE SCIPIO SALVIATI, KNIGHT TORQUATO JOANNI ACQUADERNI, AND OTHERS OF THE ITALIAN CATHOLIC ASSOCIATION.

PIUS IX. BELOVED SONS, GREETINGS AND APOSTOLIC BENEDICTION.

We rejoice that your assemblies have not been fruitless; for, besides the benefits derived from Venice, we also see, from Florence, the noble emblem of your faith and works confirmed in that program by which you have determined to incite your members to alleviate the Church's distress and to defend its rights by legal means. Indeed, whatever you have proposed is so in accord with Our desires, that We have often expressed the same sentiments in public discourses which We have held. Therefore, it will be most pleasing to Us if those who have given their names to Catholic Associ-

Translated by churchlatin.ai, a product of Boyne Archives

ations in Italy will devote industry, effort, and, as far as is possible, prudent study, with a united effort, to achieving these goals; so that, with God's help, they may avert, or at least mitigate, those evils which threaten religion and morals. We therefore commend the outcome of your deliberations; and in the meantime, as a pledge of Our paternal benevolence and of heavenly favor, We offer these words to you, Beloved Sons, to all your associates, and to all those who support your undertaking.

[*Latin ed. p. 6*]

Apostolic Letters, through which We impart the Apostolic Blessing. Given in Rome, at St. Peter's, on the eighth day of November, in the year 1875, in the thirtieth year of Our Pontificate. PIUS PP. IX. Apostolic Letters from Our Most Holy Father, Pope Pius IX, to the Archbishop of Turin, and to other Ordinaries. TO THE VENERABLE BROTHERS, THE ARCHBISHOP OF TURIN, AND THE BISHOPS OF PAVIA, ACQUI, BOBBIO, AND TORTONA. PIUS PP. IX. VENERABLE BROTHERS, GREETINGS AND APOSTOLIC BLESSING. It has been pleasing to Us that, through your affectionate ministry, you have called Us to share in the holy joy which you experienced at the end of the past month, announcing to Us the faith and piety of the citizens of Tortona and of the people dwelling in the region of Liguria, who, moved by your illustrious example and the zeal of your clergy, most piously celebrated the solemnities of St. Martin, the first Bishop and Martyr of Tortona! Indeed, in these days of tribulation and grave conflict, in the face of such wickedness of the enemies, those things which demonstrate the firm bond that unites the pastors of the Churches with each other and with this Apostolic See, and which show the charity and pious devotion to God and His Saints among the faithful, cannot fail to bring Us a sweet fruit of consolation. Therefore, We congratulate you, Venerable Brothers, for your pious gathering, and together with the clergy and all the faithful who have followed your example, and We sincerely express Our gratitude for the service you have rendered to Us. We hope for glories...

[*Latin ed. p. 7*]

The Apostolic Letters concerning the Seven Martyrs of Christ, which you have devoutly venerated, demonstrate that the strength of priestly virtue resides within you, and that they will likewise greatly benefit the faithful people, so that they may learn to resist evil with courage, and to advance to that fullness of faith through which the Saints conquered kingdoms. We earnestly implore God, the Author of all good things, through the merits of His Saints, that these things may be accomplished. And, as a pledge of our most favorable Apostolic Blessing, which we impart to each and every one of you, and to each of your congregations, with paternal affection in the Lord. Given at Rome, near St. Peter's, on the nineteenth day of Novem-

Translated by churchlatin.ai, a product of Boyne Archives

ber, in the year 1875, in the thirtieth year of Our Pontificate. PIUS PP. IX. Apostolic Letters from His Holiness Pope Pius IX to the Priest of Turin, John Bosco, who sent the first Missionaries to the Republic of Argentina. PIUS PP. IX. BELOVED SON, GREETINGS AND APOSTOLIC BLESSING. We have gladly received the two letters which you sent us at the end of the month of October, and, with paternal benevolence, we have received before us the missionaries whom you commend to us, together with your beloved son, John Baptist Gazzolo. From their appearance and conversation, our hope has increased that their labors in the regions to which they are going will be fruitful and salutary for the faithful. Therefore, we praise their zeal, and, praying for divine help for them, we have blessed them. We were pleased by what you reported concerning the progress and growth of the pious work named after Mary, Help of Christians, and, with God's favor, we confidently expect that the best fruits of salvation will result from it. Meanwhile, we again testify to you of the sentiments of our paternal affection.

[*Latin ed. p. 8*]

Apostolic Letters, and invoking the auspicious grace of Heaven, we impart our apostolic blessing to you and to the entire Congregation under your leadership. Given at Rome, on the seventeenth day of November, in the year one thousand eight hundred and seventy-five, in the thirtieth year of Our Pontificate. PIUS PP. IX. Apostolic Letters from His Holiness Pope Pius IX, by which indulgences are granted to a certain Society for women, for both sexes. PIUS PP. IX. FOR PERPETUAL REMEMBRANCE. The female society, which, having received its name from the Blessed Virgin Mary, was canonically established on the third day of December, in the year one thousand eight hundred and seventy-three, in the church of Saint Mary of the Virgins in this city, having been enriched by us with plenary and partial Indulgences on the twenty-third day of January of the preceding year, and now, since the same society has also been extended to men, and therefore, according to a decree issued by our Venerable Brother, Constantine, Cardinal Patrizi, Bishop of Ostia and Velletri, our Vicar General for spiritual matters in this city, on the twentieth day of August of this year, a new society of both sexes has been established in the same church and under the same title, so that the entire society may be governed by an ecclesiastical Moderator, and so that the male members may choose a male Antistite (leader), and the female members may choose a female Antistite, according to the laws of the same society; we have been petitioned, and we decree, that the same indulgences, by which we enriched the female society through the aforementioned Letters of Ours, be granted to this new society, and that we may increase this new society with the title and privileges of an Archisodality, by Our Apostolic

Translated by churchlatin.ai, a product of Boyne Archives

Authority. Therefore, because it is most pleasing to Us, that piety...

[*Latin ed. p. 9*]

Apostolic Letters 9 are addressed to the most holy Mother of God, the Virgin Mary, and may these prayers increase daily. Wishing to favor all and each of those to whom Our Letters are addressed with a special benefit, and desiring to absolve and consider absolved from any excommunications, interdicts, and other ecclesiastical sentences, censures, and penalties, whatever they may be or for whatever reason, if any should have incurred them, We grant and bestow, under the same conditions as those prescribed in Our aforementioned Letters of January 23rd of the previous year, the same Indulgences to the aforementioned female sodality in the Church of Saint Mary of the Virgins in the City, canonically instituted as mentioned above, perpetually and liberally. Furthermore, We, with Our Apostolic Authority, without any prejudice, and by these Letters, perpetually erect and establish the aforementioned sodality of both sexes in the aforementioned esteemed City, and named after the Blessed Virgin of Lourdes, as an Archsodality, with all its usual and customary privileges, rights, honors, and preeminences. To the Officials and members of the thus erected Archsodality, We grant and concede, by Our Apostolic Authority, through the force of these Letters, for all time, that they may freely and lawfully aggregate to this Archsodality all other sodalities of the same name and institution existing in all places, observing, however, the form of the Constitution of the Blessed Pope Clement VIII, Our Predecessor, and other Apostolic ordinances issued above, and that they may communicate to that sodality all and each of the Indulgences, remissions of sins, and alleviations of penances granted by Us to the aforementioned Archsodality, provided that they are communicable. We decree that these Our Letters are firm, valid, and efficacious.

[*Latin ed. p. 10*]

From the Sacred Congregation of the Council, ten decrees exist and are valid, and shall have their full and complete effects; and thus, in the matters mentioned above, they must be judged and defined by any ordinary judges, or by delegates, even by Auditors of the Apostolic Palace, and by any others whatsoever who are or will be exercising and exercising any authority whatsoever, after having removed from each of them, and from each of their number, any other power or authority to judge or interpret, and shall be null and void if, concerning these matters, anything should happen to be attempted in any way, knowingly or unknowingly, contrary to them. Notwithstanding the Apostolic Constitutions and Ordinances, and as far as necessary, the aforementioned sodality, and any other statutes and customs, whether confirmed by oath, by Apostolic confirmation, or by any other means, and all other contrary things whatsoever. Given in Rome, at St.

Translated by churchlatin.ai, a product of Boyne Archives

Peter's, under the Fisherman's Ring, on the twenty-seventh day of August, in the thirty-third year of Our Pontificate. L. Cardinal ASQUINIUS. FROM 8. CONGREGATIONE CONCILII COLLATIONIS CANONICATUUM. On July 24, 1875. Summary of the facts. In order to leave a lasting monument of his piety towards God, and of his charity towards his fellow citizens, Charles G., from the town of N., in his will, dated August 29, 1606, bequeathed several goods to the Church of St. Nicholas already erected there, in order that a college of Canons might be established, who, except for the dignity of being appointed parish priest, should not be fewer than twelve in number. Therefore, he himself called the Canons for the first time, and afterwards left the right of patronage to the same Chapter.

[*Latin ed. p. 11*]

Regarding the canonical regulations, 11. The testamentary executors, in order that the will of the most pious testator might be entirely fulfilled, presented everything to the Supreme Pontiff Paul, who was reigning at that time, and they implored him to deign to elevate the Church of St. Nicholas to the status of a collegiate church, preserving, however, the active patronage of the Chapter, but with the passive patronage of the founders, that is to say, those who were born, baptized, and originated from the same town as the founder. What they requested was not denied to them; but a Bull was issued, beginning with the words "In supremae diei," on May 1, 1609, which, among other things, stipulated regarding the election of the Canons in the aforementioned church, that "the election shall be made by those who are most worthy, presented to the said Chapter, without any 'reservations' or 'affections apostolic,' concerning the appointment of all other Canons, namely, all priests or clerics of legitimate age, who are to receive the order of priesthood within the year, who all, according to the judgment and disposition of the aforementioned Charles, are qualified, namely, endowed with a good reputation and name, and with sufficient learning, and are suitable for chanting the hours, and who are truly, naturally, and not falsely or by privilege, born and baptized in that town." Until the year 1844, things proceeded peacefully in this manner; when, at the urging of the civil government, the status of this church was changed. For the collegiate church was elevated to the status of a cathedral by a Bull of Gregory XVI, dated June 8 of the aforementioned year, which begins with the words "Gravissimum sane munus"; in which it was decreed: "To the church of Mace, which is now a collegiate and parish church, which, as has been said, is dedicated to St. Nicholas, Archbishop of Myra, we suppress and abolish the former title of collegiality, as well as the collegiate Chapter itself, preserving, however, all its parochial rights in the same manner, and we completely abolish, along with all favors, graces, prerogatives, and privileges of any kind, which have hitherto been granted or requested, or

Translated by churchlatin.ai, a product of Boyne Archives

applied to it."

[*Latin ed. p. 12*]

12. From the Sacred Congregation, the Supreme Pontiff Gregory XVI, in the same Bull, also decreed that all the Canons, both those founded by Charles G. and the four adjuncts, should be adorned with the title of Canons of the Cathedral Church. He also wished that a Theological and a Penitential prebend be established, which, according to the prescriptions of the Sacred Canons, should be conferred subsequently, with prior agreement. Furthermore, he reserved, as a rule, the collation of the first dignity for the Apostolic See, with the understanding that the rights of those already holding the Theological, Penitential, and Curate prebends remain, as is due, according to law. Finally, the executor of the Apostolic Letters decreed, among other things: "Other Canons, besides those who are said to be of 'Rocco Pirri' or 'St. Conrad,' concerning whom we wish to make no changes, with due consideration of the endowment, from the 'good Abbey of the Royal Patronage,' and with the understanding that, as far as possible, the right of patronage which the Chapter enjoys, the King and the Chapter, in turn, will nominate suitable ecclesiastics to be instituted as Ordinaries, within the legitimate times." From all of this, the Bishop gathered that a question had arisen from the teachings of Paul V and Gregory XVI, namely: "Whether the prescription of Charles G., the founder of the Collegiate Church, which was confirmed by Paul V, namely, that the Canons to be chosen must be from the town of N., born, baptized, and residing there, is still valid, now that that old Collegiate Church has been suppressed and abolished, and a Cathedral Church has been established." The Bishop continued: "And if the Most Holy Fathers and Cardinals were to come to a decision in favor of this controversy, considering the actual lack of worthy priests from the city of N., without any hope for the future; for it is the nature of things that it cannot be hoped that in a city of 15 or 16 thousand inhabitants, there will be so many good and learned ecclesiastics who are sufficient to fulfill the aforementioned duties and others that are held; may the Sacred Congregation, in its wisdom, provide for the best interests of all; without it being observed that..."

[*Latin ed. p. 13*]

Regarding the collation of canonries, 13 points which cannot be denied, concerning access to dignities and offices proper to other ecclesiastical persons within their own Diocese. Therefore, before the Sacred Congregation, the question was debated, with doubts proposed as indicated at the end; the Capitulars defended the passive right of patronage for the citizens of N. concerning all canonries; to which the Episcopal Curia opposed. A synopsis of the discussion. THE ARGUMENTS PRESENTED BY THE CHAPTER IN DEFENSE OF THE PASSIVE RIGHT OF THE CITIZENS OF N. The

Translated by churchlatin.ai, a product of Boyne Archives

Chapter strove with all its might to defend the passive right of patronage concerning all canonries and dignities, for the benefit of priests from the town of N. To achieve this, it began by citing a Bull of Paul V, stating that the Pontiff had requested that, in the future, Canon Prebends or clerics of legitimate age, who were to be ordained to the priesthood within a year, should be chosen. And that all of them should truly and genuinely be natives of the aforementioned town (N.). That these requests had been accepted by the Pontiff is evident from the dispositive part of the Bull, which states that Canon Prebends should be chosen truly, really, and not falsely or by privilege, but born and baptized in that place; and that this was done according to the will and disposition of Charles. This argument is further strengthened by the executive decree. For the executing prelate, using all diligence to ascertain the truth regarding the founder's dispositions, among other things, ordered that "... all Prefects and Canons of the aforementioned Collegiate Church shall be appointed... " and according to the testament and disposition of the aforementioned Charles, namely, that they be endowed with a good reputation and name, and with sufficient learning, suitable for chanting the canonical hours, and that they be truly, really, and not falsely, or by privilege, natives of the town of N., but born and baptized therein...". Therefore, the Chapter added, it is certain that...

[*Latin ed. p. 14*]

14. From the Sacred Congregation, it is established that the passive patronage right of the citizens of N. is founded on a twofold canonical basis, namely, the Apostolic concession and the will of a pious testator, as stated in the aforementioned Apostolic document, the concession having been granted. Furthermore, the Chapter argued, it cannot be objected that the testator did not explicitly state in his will the intention of choosing the original beneficiaries in the future; for although such a provision should be desirable in the will, it cannot be denied that this matter was presented to the Holy See by the testamentary executors, and that the requested grace was granted by the Pontiff. Therefore, it must be presumed that the testator's intention was somehow made known to the Pontiff, since he clearly states that he is granting the concession according to the mind and disposition of Charles. To this presumption, greater weight is added by the fact that the aforementioned Apostolic Letter was issued by the Executor of the Apostolic Letters; for after having fulfilled all requirements, he reserved the passive patronage right for the citizens of N. according to the mind and disposition of the aforementioned Charles. To all of this must be added the fact that this decree was issued at a time when the parents and relatives of the testator were still alive; and that the clergy of that diocese were present, and yet none of them intervened to prevent anything false from being done in this matter; yet they remained silent. Therefore, it must be concluded that either the testator himself, through a memorandum, perhaps obscured

Translated by churchlatin.ai, a product of Boyne Archives

by the passage of time, made known his will, or that he communicated it orally to the testamentary executors, as has been observed to have happened in several other cases. But if all of this is less convincing, it is also possible, as they say, that custom prevails over memory. Gonzalez teaches in *reg. 8, Cancell. Gloss. 9, § 1, n. 3*, that a right of patronage to benefices can be acquired by prescription, even if it is not based on immemorial custom. Patrimonial benefices are those which, by Apostolic concession, or by statutes or synodal constitutions confirmed by Apostolic authority, or by immemorial custom, must necessarily be conferred upon the children or original inhabitants of a certain country, city, or town.

[*Latin ed. p. 15*]

Regarding the collation of canonries, "or of parishes, so that only those who are natural and "patrimonial" sons should receive such benefits, and not others, whether secular or external, who do not possess such qualities." And this custom cannot be condemned as an abuse, as if it lacked good faith and a just title; rather, it descends from an Apostolic Bull. Therefore, it cannot be considered unreasonable if one were to say that the passive patronage pertains to the citizens of N., or to the testator's will, or to the Apostolic concession, or finally, to the custom itself, depending on what one wishes to consider. With these premises, it would be an empty argument to object that the right of patronage has been lost due to the change in the status of the Church, by virtue of the Bull of Gregory XVI. For it is known that the patrimonial nature of benefices truly constitutes passive patronage, which is held in equal esteem by the Church as active patronage, and consequently, it cannot be extinguished by general clauses, but only by an express derogation; without which, it is unjust to violate the legitimate right of patronage and the pious intentions of the faithful in its institution, according to the general decree of the Council of Trent, Session 25, chapter 9, on the subject of legitimate patronage. Nor does the derogatory clause that Gregory XVI added in his Bull, by which he elevated the Church of N. to the dignity of a cathedral, help to the contrary. For by that general clause, it is certain that only the favors and privileges of the suppressed collegiate church are derogated, which are not compatible with the new status of the cathedral; but it does not entirely derogate the rights acquired by those who are of origin from the city of N., according to the testator's express will, in accordance with the intention and disposition of Charles, regarding the passive patronage, which can be reconciled with the new status of the Church. Furthermore, it cannot be argued that the King, by increasing the income of the Chapter, was the founder of these canonries, but only a benefactor; since Charles himself alone laid the foundations of

Translated by churchlatin.ai, a product of Boyne Archives

the entire building.

[*Latin ed. p. 16*]

16. From the Sacred Congregation, although this might be conceded, it is still evident that such a right of patronage remains intact for the citizens of N., as the chapter demonstrates. Therefore, they cited various cases in which, even in our times, both civil and ecclesiastical authority have always preserved the right of patronage for these citizens. For if a benefice should become vacant, only with the help of a dispensation are outsiders admitted to it, even though the chapter grants its consent to these outsiders due to the lack of available secular priests. Furthermore, they added that it would not be permissible, due to a change in the status of the Church in the chapter of N., to appoint a Penitentiary, a Theologian, and an Archpriest-Parish Priest; indeed, the entire chapter should be considered a Senate of the Bishop, and therefore should consist of learned individuals, which are not easily found among the clergy of that city. Moreover, it cannot be presumed that in a city of 15,000 souls, there will always be conspicuous priests of learning available; in fact, they claim that the Senate's power is now reduced to mere words, and that it is merely an honorary position, which is rarely used, as it only comes into play when the Bishop is required to hear the chapter regarding the union of benefices. As for the Archpriest, the Theologian, and the Penitentiary, they state that they have been adequately provided for through the admission of outsiders, so that even lawyers may be admitted if suitable candidates cannot be found among the citizens. Whatever may be the case regarding the provision of offices, they distinguished between the passive and the active aspects of the right of patronage; and they maintain that this right has not been abolished by the Bull of Gregory XVI, which reserves for this See the power to grant the highest dignities, as well as the right to grant the benefices of Theologian, Penitentiary, and Curate, as is the case by law. Hence, the Apostolic Delegate, ordering the execution of the aforementioned Bull, stated: "By Apostolic authority, the chapter's right of patronage is entirely..."

[*Latin ed. p. 17*]

We abolish the 17 canonries of the [city of] N. and the Penitentiaries, now and in all future times. Furthermore, concerning the passive patronage over the aforementioned canonries, no mention of it can be found, either in the Apostolic Bull or in the Letters of the Apostolic Delegate, and it must be said that this right has remained in favor of the citizens of N. Moreover, this right was recognized by the Holy See in a decree of December 21, 1860, by virtue of which the Bishop of N. was granted the faculty to admit a certain priest from outside [the diocese] to obtain those ecclesiastical benefices which were to be conferred only upon natives and original inhabitants of that city, provided that the rights of others were not thereby violated. But

Translated by churchlatin.ai, a product of Boyne Archives

the benefices which are to be conferred only upon natives, and which are found in the city of N., are those which [the founder] Charles G. established. Therefore, the capitulars concluded, that in no way can outsiders be admitted to the acquisition of the Cathedral canonries of N. WHAT HAS BEEN PRODUCED BY THE EPISCOPAL CURIA IS CONTRARY TO THE PASSIVE PATRONAGE RIGHT OF THE CITIZENS OF N. Furthermore, the Episcopal Curia noted that it does not appear from the testamentary disposition of Charles G. that the passive patronage right was reserved to the natives and original inhabitants of N.; therefore, the prayers offered to Paul V by the testamentary executors appear to be tainted with the vice of surreptition and deception. Hence, since this [grace] has arisen from false narratives, it must be considered entirely useless, as the Most Eminent and Reverend Fathers of the Sacred Congregation [of Bishops and Regular Canons] declare, especially in the *Fabricae subsidia*, February 14, 1761, § 8. Likewise, the opposition must be considered null and void, namely, that Charles G. either through a codicil or orally, manifested his will regarding this matter; because in the aforementioned Bull, no mention is ever made, and no trace remains, either in the capitular archive or in the diocesan curia. As for how it was preserved, [see] *Testamenta*, volume IX, page XCVII, 2.

[*Latin ed. p. 18*]

18 From the decree of the Holy Council, and therefore with greater right, this codicil, or the depositions of testamentary executors, ought to be observed. Therefore, since the matter appeared defective from the beginning, it is improperly invoked in reverse, because it obstructs the law, as the principle established in Law 20 and following concerning feigned jurisdiction states: "That which is defective from the beginning cannot be strengthened by the passage of time." Furthermore, to establish this custom, a specific confirmation from the Apostolic See is lacking, because the custom could induce Apostolic approval, at most, in the common form of Gratian, Disputations, book 1, title 245, number 37; Rota decisions, number 6, number 1, before Buratto; but certainly not in a specific form, as was necessary in this case. Indeed, if the intention was to exclude, by way of rule, a certain class of persons from canonical benefits, then a specific confirmation from the Pontiff was required, as stated by Lotter, *De re benefic*, book 2, question 42, number 9; *Lud. de iure patr.*, discussion 67, number 12; Sacred Congregation, in the matter of Neritonen, concerning the conferring of canonical benefits, May 11, 1872, § "Nor should you say..." And if it may be conceded for a time that the arguments of the Chapter are not without some force, nevertheless, as the Bishop states, the condition of the Church remained unchanged by Gregory XVI, and therefore that law was completely abolished by Pontifical authority. For an old collegiate church, suppressed and abolished, a new order, a new institution, and a completely

Translated by churchlatin.ai, a product of Boyne Archives

new law arose, as the Pontifical letters clearly expressed: "We suppress and completely abolish the Matricula of the Church, formerly collegiate and parochial." Afterwards, the same Ordinary continued: "Therefore, no church founded by Charles Giavanti exists. It was decreed by the Chapter, and therefore no collegiate Chapter exists. The town of N. was erected into an Episcopal city; the citizens were to enjoy the honors, privileges, and prerogatives of episcopal cities. The church of St. N. was erected into a cathedral, and the cathedral Chapter was not embellished at all. Therefore, nothing remains of that old collegiate."

[*Latin ed. p. 19*]

Concerning the canonical regulations, 19 "a completely new creation has been made, and therefore, those rules and laws by which that which was abolished was governed, ought not to be adopted, unless the Pontiff wished that the ancient statutes should remain in force, which has not been done, as far as the Cathedral Chapter and the election of Canons are concerned. However, the Pontiff wished that the care of souls should be preserved as before, and therefore, he expressly stated that the former [arrangement] should remain, together with the annexed parochial duties, which further confirms the abolition of the other conditions. For, in a collegiate church, among which were the active and passive right of patronage, and parochiality, parochiality was expressly reserved; the active right of patronage was partly granted to the King, as a supplement to the benefices, and partly expressly confirmed to the Chapter; but nothing is stated concerning the passive right, therefore, it must be considered abolished together with the collegiate church. This is not without reason. For Charles [of Anjou] could no longer impose laws upon the church, which had been founded anew and endowed with greater revenues, so that the individual benefices of this founder were so unjustly diminished that the number of canons had been reduced to barely thirty-five. The collegiate church erected by Paul V, according to the foundation of Charles of Anjou, was a certain particular church, which served only the town of N., and nothing concerned the other towns; but in the Cathedral Chapter erected, and the church decorated with the title of the City of the Episcopal See, this City and the church located therein are the head of the other towns, and of the churches existing in them; the constitution of the church of N. is of interest to all the citizens of the entire Diocese, to whose needs and customs it must correspond; therefore, it cannot retain its former constitution. The Cathedral Chapter is a body of the Bishop to whom he must seek counsel in the administration of the entire Diocese; the church of St. Nicholas, of the Bishop of Myra, has been substantially altered together with its Chapter.

[*Latin ed. p. 20*]

20 From the Sacred Congregation, it is so; therefore, that condition con-

Translated by churchlatin.ai, a product of Boyne Archives

cerning the enriching of the town of N., and the canonicals to be chosen there for those born and baptized, still does not hold.

Concerning the Prebend, and the Theologal and Penitential Canons, the matter seems to be settled; in the Apostolic Letters of Gregory XVI, and in the execution documents of the Apostolic Delegate, the following words are expressed: "Reserved by way of an Apostolic rule for this Holy See is the conferring of the first dignity, as well as the free conferring of prebends, according to law, of the Theologal, Penitential, and Curate positions, by which words it is most clearly shown that the right of patronage over these three prebends has been completely abolished, and that these prebends are free from any obligation whatsoever. This was further declared by the Apostolic Delegate in the execution documents, where it is read: "In the future, when the first dignity becomes vacant, it will be filled by the Apostolic See; the canonical positions of the Theologal and Penitential orders, maintaining the form of free conferring, will be conferred according to the agreements concluded between the aforementioned Apostolic See and the King in the year 1818. And further below, the Delegate himself states: "By Apostolic authority, the right of patronage of the Chapter is completely abolished, with regard to the Theologal and Penitential positions, now and for all future times. It cannot be said that in this case, with the right of patronage of the Chapter abolished with regard to the active right of patronage, the passive right remains, that is, concerning those originating from the town of N., born and baptized; for it would be necessary to declare this in the Bull, as more things have been declared which the Apostolic See deemed it necessary to confirm from the statutes of Paul V, especially since the Apostolic See, having reserved for itself the conferring of these three prebends, would remain bound in the same conferring, which should be completely free, and not bound by any obligations whatsoever.

Furthermore, this freedom of conferring is beneficial to the entire Diocese of N., for if in the Diocese of N. there were men of talent,

[*Latin ed. p. 21*]

Concerning the canonical appointments, 21: "And since those endowed with virtue, and therefore suitable for the care of souls, for exercising the ministry, and for the office of Theologian and Penitentiary, ought to be preferred, and indeed, should be entirely favored, so that this benefit may be conferred upon them, and so that these benefices, established for their advantage, may indeed serve the greater benefit of the Church. Considering these things, it appears that the law of the founder, namely, that canons of the collegiate church of the town of N. should be those born, and baptized in that town, after that church was completely suppressed and abolished, and a cathedral was erected in its place, along with the former church, should also be abolished. From these Apostolic principles, these consequences clearly follow, and I do not know why, even now, the

Translated by churchlatin.ai, a product of Boyne Archives

Church of N. still hesitates concerning the election and the granting of canonical appointments to priests who are neither born, nor born, nor baptized in N. Thus, even in the granting of the Theological Prebend, which became vacant in the year 1847, a dispensation was scarcely granted by the Apostolic See, as it should have been, but rather was requested by the Royal Monarchy, which, by divine Providence, has now been removed, because an external priest was competing for that Prebend, and no one suitable was found among those born, and born, and baptized in N. In the granting of the Rectorship, which became vacant in the year 1858, the aforementioned theologian, already having obtained the aforementioned dispensation concerning the Theological Prebend, and other priests of this diocese were excluded from competing, because they were neither born, nor born, nor baptized in the town, and another priest, who possessed these qualifications, and who wished to compete for the aforementioned Rectorship, was, for some reason, excluded, and a dispensation from this exclusion was obtained from the Apostolic See in favor of the current Rector. Furthermore, the Penitential Prebend has been vacant since the year 1865, and so it remains, because among the priests who have competed for it, there have not been any who are truly born, and born, and baptized in the town."

[*Latin ed. p. 22*]

From the Sacred Congregation: "None of those examined were found suitable for providing or obtaining that Penitential [Indulgence]." Having noted these things, the following propositions were to be resolved by the Most Eminent Cardinals who constitute the Sacred Congregation.

Doubts:

I. Whether, by law, a passive patronage exists over the aforementioned Canonry in favor of the citizens of N., given the passage of the Bull of Paul V in this case.

II. Whether the same patronage should also include the obligation to provide a Theologian and a Penitential [Dispenser] in this case.

III. Whether and how, considering the lack of suitable Priests in N., provision should be made in this case.

RESOLUTION. The Sacred Congregation, having knowledge of the matter, decided on July 24, 1875, to respond as follows:

To the first doubt: Affirmative, concerning the Canonry of Giavanti to be presented by the Chapter.

To the second doubt: Negative.

To the third doubt: Affirmative, through suitable Priests, and preferably Diocesan Priests.

THEREFORE, IT IS UNDERSTOOD:

Translated by churchlatin.ai, a product of Boyne Archives

I. The patronage, whether active or passive, which arises from the will of a pious testator and Apostolic concession, is founded on a double canonical basis; and it remains intact in the change of the status of a Collegiate Church to a Cathedral, if it can be adapted to the new and more noble status of the Church.

II. The will of the pious testator (if it appears less clear from the testamentary documents, or if it has been erased by the ravages of time) can also be ascertained from this addition, namely, that...

[*Latin ed. p. 23*]

23. Concerning the canons, namely, if there remain any concessions which appear to have been granted by the Holy See, according to its own understanding.

III. Also, a custom, exceeding the memory of men, supported by good faith and just title, has the force of law, or of the will of a pious testator; especially if it originates from a time when such a will was evident to those who were present and who could have opposed it, but did not.

IV. The passive right of patronage is held by the Church in equal esteem as the active right; indeed, it cannot be extinguished by general clauses, but an express derogation must be sought to invalidate it.

V. General clauses only derogate from the favors and privileges of a suppressed collegiate church, and those which are incompatible with the new and more noble status of the cathedral church; but not from rights acquired by third parties.

CONCERNING FUNERALS AND EMOLUMENTS.

On August 15, 1875. A summary of the facts.

The Reverend Father P., a member of the Order of Friars Minor Reform, guardian and custos of the monastery of St. Bernard in the City of N., presented to the Most Sacred Prince, that in the year 1868, a public cemetery was taken from the area annexed to, and belonging to, the religious family of the Friars Minor Reform in the same city, by order of the Civil Government. Furthermore, the Ordinary blessed it and issued a circular letter on January 6, 1869, by which he regulated its use, adding certain provisions printed for greater clarity. By these two acts, the cemetery was declared to be parochial; so that all other churches were deprived of the faculty of burying, if they lacked their own cemetery or burial ground.

1. See, if you wish, Volume I of these annals, page 85.

[*Latin ed. p. 24*]

24. From the Sacred Congregation concerning the common cemetery. Because this infringed upon the rights of the Churches, concerning their own burial grounds, the Superiors Regular, observing this, appealed to the Ordi-

Translated by churchlatin.ai, a product of Boyne Archives

nary. He responded that it was not his intention to abolish such a right, but only to suspend its exercise until either individually, or collectively, they had acquired a private cemetery within the public cemetery, for themselves or for those whom they would subsequently wish to bury there. Therefore, since the Fathers of the Church of Saint Bernardine had not acquired any portion within the aforementioned public cemetery for the Church, the funerals of three deceased persons were hindered, although the Guardian and Custos, along with two other priests, daily performed divine services in the aforementioned church. The names of the deceased were: 1.° Teresia, who, having openly declared her will before two witnesses, wished to be transferred to said church, where her husband was already buried. 2.° Lucy, who, likewise, declared her will before witnesses to be transferred to the Church of Saint Bernardine, for the purpose of her funeral. 3.° Antonia P., whose husband was buried there, by her own choice. It was determined that this matter should be resolved between the parties without dispute; but, as time passed and nothing was done, the matter was brought before the Sacred Congregation. After receiving the necessary information, and with the full consent of the Most Eminent members, it was decided that this matter should be considered. A concise discussion. THOSE ARGUMENTS WHICH ARE ADVANTAGEOUS TO THE RELIGIOUS. Concerning the first doubt, it was observed by the advocate of the Religious that, although the right of burial depends on the right of interment, the two are nonetheless very different. *Rota decis. 76, § 6, coram Decursiis.* Therefore, having abolished the right of interment by the erection of public cemeteries, they...

[*Latin ed. p. 25*]

Concerning funerals and emoluments: 25. The right to funerals is not abolished, but only the place of burial is changed materially and physically. The Holy Congregation, in its decrees concerning the law of burial and funerals, on May 14, 1825, states: "It must be noted that cemeteries have been established in place of the burial grounds of individual churches for the sake of public health. Therefore, the Church, which had the right to bury in its own burial grounds, now exercises that right in the public cemetery; therefore, the right of burial has not been abolished, but only the place has been changed." In Iesi, concerning the law of funerals and the restitution of emoluments, on November 26, 1864, it was decreed: "The Holy Congregation, by the erection of cemeteries, has only changed the place of burial materially and physically, and not the right of burial, which, indeed, it considered to remain fully intact." In Forlì, on January 26, 1833, and in many other cases. And in Forlì, concerning the law of funerals, on September 16, 1871, it was decreed: "The Church, which possessed the right of 'burial,' now exercises that right in the public cemetery, which, of course, does not prevent it from receiving the emoluments of funerals and from performing the funeral office over the deceased, as has been re-

Translated by churchlatin.ai, a product of Boyne Archives

peatedly declared by the Holy Office." Similarly, in Syracuse, concerning funerals, on February 24, 1872, it was decreed: "To all of which, if one were to add a hundred times over that the Holy Congregation has concluded that the erection of cemeteries has only changed the place of burial materially and physically, and not the right of burial, which it therefore considered to remain fully intact, it is clear that the matter has reached the height of evidence. Indeed, it is clear that such a statement has been made repeatedly. In Turin, on May 24, 1821, in a case concerning a doubt, question IV: Whether a collegiate church is obliged to cede the maintenance of the right to perform the funeral rites in its own church, and to receive the emoluments according to custom, notwithstanding the construction of a public cemetery in that case, the Most Reverend Fathers wisely responded: "Affirmatively in all cases."

[*Latin ed. p. 26*]

26. From the decree of the Holy Council, it can be understood that, if it is established that the right to burial pertains only to public cemeteries, or, more precisely, if the place of burial is changed to be merely material and physical, it follows that the rights of burial and of funeral rites have been preserved. Therefore, it is clear that the Regulars can freely exercise the right of funeral rites in their own churches, and that it is not necessary for them to have a separate and distinct burial place in the common cemetery. And this is all the more so, because this right of funeral rites, insofar as it derives from the common law or from an Apostolic privilege, cannot be taken away by the Bishops; for it is well known that only the Pope can derogate from the common law, and that to revoke a benefit granted by a Prince is like a sacrilege. Furthermore, an example can be cited from the statutes of the Roman Clergy; for that statute was subject to the authority of the Most Holy Pope Pius IX, and His Holiness, by a benevolent decree given in his own voice on October 25, 1862, benignly approved it, confirmed it, and commanded that it be published and observed, and that all who should act to the contrary should be prevented. Similarly, it would be a futile objection to argue that it is forbidden for the Regulars to raise the cross, to wear the stole, or to order processions outside the confines of their convents; for this would occur if the Regulars were to perform the funeral office over the bodies, and to accompany the body to the burial in their own churches, as pertains to the funeral office. This objection, however, would be a weak and ineffectual one, because it is contradicted by the decision of the Order of Preachers, issued in 1846, which addresses such difficulties. Moreover, the advocate for the Regulars argues that the solution to the second question depends on the decision regarding the first. Indeed, if it is decided that public cemeteries are to be established, and that the right of the Regulars to perform funeral rites in their own churches is to remain intact, even if they do not have a separate burial place in the common

Translated by churchlatin.ai, a product of Boyne Archives

cemetery, then, in the three cases mentioned above, the right to perform the funeral rites will follow.

[*Latin ed. p. 27*]

The expenses and benefits of a funeral pertain to those who have the right to bury, and it cannot be argued that such an election was not legitimately approved, when the witnesses, without any exception, have confirmed this, as is clearly evident from the records. However, if a different decision was made, then the funeral expenses do not pertain to them in any way. He concluded by stating that, once the right to bury is granted, there can be no doubt that the Regular clergy have the right to receive the benefits, since this has been decided very frequently by the Sacred Congregation, as can be seen in the document concerning the right to bury and the restitution of benefits in Iesi, dated November 26, 1864, §, and elsewhere. Therefore, he concluded his defense with the words of the renowned Devoti on the most important laws, page 117: "There. I appeal to you, most wise Fathers, whose judgments are the truest, whose sentiments are never deceived, have you not always maintained the same, when causes are brought before you, in the most illustrious and magnificent place, dedicated to wisdom? And if our laws, if learned men, and indeed you yourselves have always maintained this, surely it will be permissible to deviate from it, with the consent of all, and with your judgment always confirmed."

THOSE THINGS WHICH ARE ADVANTAGEOUS TO THE ORDINARY AND THE PAROCHIAL CHURCH OF SAN DONATO. The Ordinary argues that the right to bury is inherent in the care of souls, and therefore belongs only to parochial churches, just as it formerly belonged to Bishops and cathedral churches. Glos, in Clement, under the word "sepultura," concerning burials, x bbas, and Fagnanus iii, Chapter on Fraternities, on burials, and DD. passim, Canon 16, cause 13. However, it has been expressly denied to the Regular clergy the right to bury, because they lacked territory and people, so that they could exercise such a jurisdictional act. Canon. Placit. 1, cause 16, question i. Cardinal De Luca, on the Regulars, discourse 1, number 49.

[*Latin ed. p. 28*]

§28. From the Sacred Congregation, it has been granted to them, as a simple privilege, as argued in chapters 9 and 10 concerning burial, in Clementine Decretals. Recently, in Gonzalez, book Cap. Fraternitatem, number 7, and in the chapter concerning number 11, concerning burials. Although such a privilege is included under the term "law," it nevertheless, according to common law, abhors a strict interpretation, and therefore must be understood in a way that avoids contradiction. Hence, just as the law itself ceases when the reason and purpose of the law cease, so too, when the reason and purpose of the privilege cease, the privilege itself must cease.

Translated by churchlatin.ai, a product of Boyne Archives

Having stated this, he adds that the reason for this privilege, and its very terms, forbid the religious from burying and performing funeral rites today. Indeed, he states that the reason for the privilege consisted in the pious belief of the faithful that the souls of the deceased, as well as the living, would be aided by prayer, but also by the intercession of those who had given the ultimate sacrifice for Christ. From this, it was disseminated, a general desire of the faithful, that the bodies of the deceased should be placed near the sacred relics of the Saints, and where the use of common prayers would be more frequent, where prayers and the solemnities of the Mass are celebrated, both for the living and for the dead. Chapter 3, concerning burials. Therefore, when public cemeteries are established, the reason for this privilege ceases, and the privilege itself, as if of its own accord, ceases to exist. However, it seems that the right to bury and perform funeral rites has ceased, since the right to perform funeral rites is an accessory to the right to bury. Therefore, when the principal right fails, the accessory right also fails. Zallinger, in *Institutiones iuris Ecclesiae, de Sepulturis*, § 358, and Berard, in *ius Ecclesiae, universa, de potestate parochiae ratione funeraria*, teach that the religious do not possess the right to bury or perform funeral rites. However, neither the reason for the privilege, nor the terms of the privilege itself, prevent the religious from enjoying the right to perform funeral rites today, after the establishment of the cemetery. Indeed, Ciernen, in *Dudum ad Ecclesias et loca propria regularium*, granted that privilege.

[*Latin ed. p. 29*]

He restricted funerals and related benefits. He ordered, "Furthermore, we add to this decree and to our ordinances that brothers of the aforementioned order may freely establish cemeteries in their churches or in any places they may have established, so that those who choose to be buried in the aforementioned places and churches may receive burial there; therefore, he declared that, since among religious orders there is no longer a property right in the place or church in which the faithful are received who choose to be buried there, they cannot enjoy the right to burial and related benefits. Moreover, he asserted that the resolutions of the Holy Congregation of the Council and, especially, the decree concerning burial of May 14, 1824, were harmful, firstly, because one must judge according to laws, not examples; secondly, because if the law of Piana, through the erection of cemeteries, did not intend to deprive churches of all those rights which they derived from general discipline, or from special customs, it certainly did not intend that, with the erection of cemeteries, the churches of religious orders should have the right to perform funeral rites, since the introduction of cemeteries had stripped them of the right to burial. Indeed, the right to perform funeral rites and to receive related benefits had been granted to them by law through the privilege granted to them; but since the introduction of cemeteries reverted burial to common law, it

Translated by churchlatin.ai, a product of Boyne Archives

is clear that the right to perform funeral rites and to receive related benefits also reverted. Furthermore, he affirmed that the Archbishop did not have the right to declare a cemetery to be parochial. For there was no law that prevented him from doing so; for it is known that it is the right of the Bishop to enact those laws that concern the good of his diocese. This was confirmed by the example of the Vicar of the City of Rome, who, in enacting a statute for the clergy of Rome, prescribed the same thing. It is fitting to extract something from the arguments presented for the parish priest of Saint Donatus outside the walls. Among other things, attention was called to the circular letter of the Ordinary of Rome concerning funerals, in those parts that refer to the abolition of the choice of burial place and the establishment of cemeteries.

[*Latin ed. p. 30*]

30; I j I I j I I j i ij From the Special Decrees of the Council, which the Holy Father considers to be illegitimate and arbitrary, there is nothing other than a literal copy of the Statute of the Clergy of Rome, drawn up by the Most Reverend Cardinal Vicar, and which has also been approved by the Most Holy Father, Pope Pius IX, by the living voice of his oracles. The Statute of the Clergy of Rome is appended to this document, as is that which gave rise to the circular letters addressed to the Diocese of U., and which is nothing other than an introduction to the public cemetery constructed in Campo Verano, dependent on two ordinances of Pius VII, and opened in the year 1836, during the reign of Gregory XVI. In Rome, as in the Diocese of U., there were Regular clergy who possessed the same privileges as those which the Fathers of the Order now demand be observed; and these privileges ought to have been observed more in Rome, where all religious families are gathered, than in the Diocese of U., where only a few religious families are found. The matter was presented to the judgment of certain experts highly skilled in Canon Law, from which judgment it was declared that the cemetery was a public one, and the elective burial ground was abolished. This abolition, as a logical consequence, follows from the introduction of a public cemetery, and from the general obligation to bury all bodies therein, thereby removing from all churches that kind of right. Hence, the general faculty of choosing one's own burial place is established. From this moment, the Regular clergy, deprived of their own proper place where they could perform burials, lose all right to a funeral. The Supreme Pontiff approved, and the Superiors of the Regular clergy were silent. The same dispositions were carried out, in equal measure, by the Ordinary of U., for his Diocese, and by the Father Guardian of the Reformed, at their discretion, and these actions were denounced as abuses. Furthermore, if the Statute of the Clergy of Rome derives its efficacy from the authority of the Supreme Pontiff, as in Rome, then the equality of the adjuncts arises; and it is not permissible to call it an abuse or an arbitrary act in the Diocese

Translated by churchlatin.ai, a product of Boyne Archives

of U., that which has been declared to be just and according to the law of Rome. And if...

[*Latin ed. p. 31*]

The validity and benefits of burials, as well as the right to receive fees, derive from Apostolic approval; therefore, such approval strengthens all that we have discussed concerning the authority of the Ordinary. Regarding the second doubt raised, it was observed that, in certain cases, regular clergy do not possess the right to perform burials or to receive fees, because the choice of burial has not been legitimately approved. This should have been the case in three instances, since a right arises from a fact, and therefore, the right cannot be disputed if the fact upon which the right is founded is not certain. The choice of a burial place cannot be presumed, but must be entirely proven by the means prescribed by law. However, it is certain that the regular clergy have not proven this; therefore, the fact of the choice of the burial place does not legally exist. With the above points from both sides noted, the following propositions must be resolved:

I. Whether regular clergy should have a separate and distinct burial place in a common cemetery, in order to enjoy the right to perform burials.

II. To whom does the right to perform burials and to receive fees belong in this case?

RESOLUTION. The Holy Council, after due consideration, decided as follows:

I. Negatively.

II. The fees for burials pertaining to Theresia and Ludae belong to the Reformed Minor Friars, with one-fourth being given to the parish priest.

FROM WHICH WE GATHER:

I. That in newly constructed public cemeteries, the right to be buried has not been abolished, but only the physical location of the burial has been changed.

II. That churches which possessed the right to bury, now, with the establishment of cemeteries, enjoy such a right, to bury in public cemeteries.

[*Latin ed. p. 32*]

32 From the Decrees of the Council, concerning the bodies which previously could be buried in their own burial places. 111. For public cemeteries have been substituted for the burial places of individual churches, for the sake of public health; therefore, it seems that churches which possess the right of burial also possess the faculty of performing funeral rites. IV. Consequently, it is not necessary to possess a private and distinct place in a public cemetery in order for one to claim the right of performing funeral rites, if one already possesses the right of burial in one's own church. V. The

Translated by churchlatin.ai, a product of Boyne Archives

right of burial and the right of performing funeral rites cannot be presumed; but must be demonstrated by legal proof; that is, through those means which the law prescribes. VI. If a question arises concerning the choice of a burial place, which confers the right of performing funeral rites upon a particular church, such a choice must be legally established; because, since the right arises from an act, that act must be clearly and certainly demonstrated. VII. The legal proof seems to be lacking to demonstrate the choice of a burial place in the third case. REMOVAL FROM THE PARISH. On September 14, 1872, and May 24, 1873. Aloysius, a priest, obtained a parish in the place called V, in the Diocese of P, in the year 1855, through the concurrence and by means of Pontifical Bulls, and on May 22 of the same year, he took possession of his parish, the revenues of which were assigned to him to establish a title of the Sacred Order. However, after a certain interval of time, the Ordinary removed him, and sent him to assist in two parishes successively, where he ministered to those afflicted by the cholera. Finally, with the permission of the Ordinary, he began to wander here and there: and an-

[*Latin ed. p. 33*]

Regarding matter 33, the parish of number 1858 presented a petition to the Sacred Congregation for the Clergy, requesting that it provide for the legal procedures concerning the removal of the aforementioned priest. The Ordinary, to whom prayers had been sent for information and a decision regarding the matter, reported that he had already deemed the removal of Aloysius necessary, because he himself had given undeniable signs of mental derangement; and he presented many facts which confirmed his assertion. Therefore, on December 4th, a decree was issued: "Reported." In the following year, 1859, he departed for the regions of America with dismissal letters granted for one year by the Ordinary. These letters were confirmed three years later, but under the condition that, as soon as it was possible, he would send word to the parish. However, from America he again sent prayers to the Sacred Congregation, requesting that it render a judgment regarding his removal; and again, the Sacred Congregation heard the Ordinary, who reported about this parish priest the same things that he had narrated in the initial information, adding some further proofs of his unsound mind for fuller confirmation. Therefore, on August 26th, 1826, he received a new decree: "Reinstated." Upon returning to Europe, he presented a third petition, and on December 4th, 1871, a decree was issued: "In the decrees of August 26th, and therefore, considered at his request." Meanwhile, the Bishop of the Diocese, that is, the one who had ordained him, who had removed him, passed away; and this parish priest presented a fourth petition, requesting 1.° the return of all parish revenues from the day of possession until the present day; 2.° an accurate accounting of the revenues of the vacant parish from the day of the vacancy until the

Translated by churchlatin.ai, a product of Boyne Archives

time when he took possession; 3.° the restitution of 7,000 livres which he had appropriated for himself under the title of Holy Orders; 4.° finally, compensation for damages. Upon receiving information from the new Ordinary, he brought forward the same principal facts that his predecessor had presented; and finally, the case was proposed for consideration by Summary Prayers. Acts, volume IX, page CVII, 3.

[*Latin ed. p. 34*]

34 From the Synopsis of the Disputation of the Council of Trent. ORDINARY ARGUMENTS. It is noted that the Ordinary, by virtue of his office, has appointed a V. Oeconomus only out of necessity, when the latter is required in the parish of the place. For the Church, the salvation of souls is the supreme law: therefore, Bishops must direct all their cares and thoughts towards this end; and it is not unusual for coadjutors and vicars to be appointed in a parish, whenever the proper pastor is unable to work for the good of souls due to a serious reason, according to the decree of the Council of Trent, Session 21, chapter 6, concerning reforms. The same course of action has been prescribed by unanimous agreement by the Doctors of Ecclesiastical discipline: when the aversion of the people is so grave and constant that scandal threatens, the removal of the pastor is entirely necessary; however, this must be done under the law that, if the people's aversion arises from the faults of the pastor, he should be subject to the penalty of deprivation through the regular process. Reifrenst. Canon Law, title concerning the exchange of things. The Sacred Congregation, in Limburg, concerning the exchange of parishes, June 27, July 18, December 19, 1857, and in Bergomen, concerning suspension, December 5, 1868, § However. In the case of a pastor, he has not been strictly removed from the parish, since it would be impossible to transfer him to another parish due to a mental infirmity; and furthermore, he has consistently refused to accept any other provision. And therefore, it is true that the Curia has not removed him, so that he is still considered to be the pastor. But an Oeconomus was necessary, lest the salvation of souls be endangered by his presence and his manner of acting. Finally, his petition regarding the revenues of the parish must not be supported in any way; for the Council of Trent, Session 23, chapter 1, concerning reforms, decreed that a pastor who is absent from his residence...

[*Latin ed. p. 35*]

The parish of Beemotion had not been able to produce its accounts for 35 years. Nor was it able to provide a dispensation from absence granted by the Ordinary, since it is known that the Holy See can only grant such dispensations. Despite these circumstances, those who remained claimed that the Ordinary had granted them all the parish's assets, after deducting expenses, but that he himself had never wished to accept them. To support

Translated by churchlatin.ai, a product of Boyne Archives

the claim of expenses incurred for the benefit of the parish, no legitimate proof, either in general or in detail, was presented. ARGUMENTS OF THE PAROCHIAL VICAR. He stated that he had suffered hostility from the government because he had refused the royal approval requested by the Ordinary regarding the pontifical bulls granted to him, and therefore he had lacked the appropriate compensation that the government had promised: and, lacking such compensation, he had been forced to spend seven thousand livres of his own patrimony to purchase vestments, furnishings, and other necessities for the Church. This fact had been confessed to the Vice-Chancellor of the Curia, at the time when Aloysius was removed, without any opportunity being given for him to clear himself of the accusations; and without any value being placed on all that he had done for the benefit of his Church. Furthermore, he claimed to be able to demonstrate with documents that his patrimony had been transferred to the parochial assets. Moreover, he asserted that the Bishop had acted deceitfully towards him: since, after carrying out the removal, he had dispensed him from the obligation of residence, and had ordered him to go elsewhere to provide assistance to those afflicted with a choleric illness. He claimed that the Bishop's intention to drive him away from the parish had been evident from the numerous licenses for absence; but that he had shown constancy of spirit, since, not only had he not accepted one or two, but four letters, even from regions of America, sent to Rome, and despite receiving contradictory responses, he had requested his restoration to his own parish by the Holy See. But he claimed that the Bishop had acted illegitimately, since he had no authority to grant such a long absence. Reiffenst. Concerning the Residence of Parish Priests, Book III.

[*Latin ed. p. 36*]

36 From the Sacred Congregation's decrees concerning the Council of Trent, Title 4, paragraph 77, it is taught that "a Bishop, having knowledge of the cause and having approved, can grant permission to a parish priest to be absent from his parish for two months, or, for a grave reason, for three months." And the decree of Fagnan, chapter "Relatum," number 21, and Barbosa, paragraph 2, concerning the office of a parish priest, number 58, are cited. Proceeding from fact to law, the plaintiff argued that the Curia had not acted correctly, either with regard to the strict application of the law, or with regard to the faculty of administering the economic affairs of the diocese. In law, a parish priest, to whom a right has been acquired through legal means, is immovable; and even if his conduct is scandalous, he can only be removed after three admonitions. The Council of Trent, in Chapter VI, Session 21, concerning Reforms, clearly distinguishes between temporary coercion and total deprivation; but in both cases, even if the matter concerns only the appointment of an economist, admonitions must precede. This theory has been consistently maintained by the Sacred

Translated by churchlatin.ai, a product of Boyne Archives

Congregation, as demonstrated by the case of Saint Severin, April 4, 1778, and more recently by the decree concerning the Restoration and Rehabilitation to the Parish of Piacenza, dated January 24, 1846, in which the Sacred Congregation ordered that the proceedings against the parish priest be conducted at the Bishop's expense, due to the most serious imputations against him. Finally, the same doctrine has been upheld by the Sacred Rota in the case of Ferrariensis, concerning a parish priest, April 8, 1715, in the case of Placentia, concerning a parish, December 9, 1743, cited by Lana, and especially in the case of Cracoviensis, concerning a parish priest, June 22, 1767, cited by Guerra, § 5. This does not concern ignorant and uneducated individuals, for whom Bishops have the faculty of temporarily assigning coadjutors and vicars; for the fact of Aloysius's appointment excludes ignorance. Furthermore, the proceedings are excluded because the Ordinary acted with informed consent; and even in this case, a just, reasonable, and proven cause would be required. The alleged semi-insanity, presented as a reason for removal, did not exist at the time of the removal; nor can it be presumed in a priest celebrating Mass, without the testimony of medical doctors. And the Sacred Congregation has declared that a parish priest unjustly removed, or rein-

[*Latin ed. p. 37*]

The Congregation for the Affairs of the Church had consistently decreed that provision be made for the parish of 37, or some other benefit be provided. This is evidenced by the documents: Suspension and Removal, December 17, 1864, in Limburg; Parish Exchange, June 27 and December 19, 1857, and in Herbipole, Parish Matters, December 22, 1860. Furthermore, it was testified that the parish priest was a man of piety and good morals, and that he had shown great concern for those suffering from the Asiatic disease.

RESOLUTION. After considering these matters, the Sacred Congregation wrote to the bishop on September 14, 1872: "Let the bishop be heard regarding the newly presented information."

PROCEEDINGS. The Ordinary, complying with the mandate, informed the Sacred Congregation of the actual income of the parish, which was insufficient to meet the needs of the parish and the parish priest. He declared that he had no benefice with which to provide for this parish priest. He further stated that the parish benefice had been assigned to Aloysius in place of a patrimony granted upon his ordination. The Ordinary disputed the claim that the parish priest had spent his own patrimony on purchasing church furnishings. Finally, he declared that, in order to promote the good of souls, the removal of the parish priest should be confirmed, due to the undeniable signs of unsoundness of mind that he had exhibited.

NEW PARISH PRIEST'S CLAIM. The new parish priest recalled that the greatest caution must be exercised in cases where a parish has been

Translated by churchlatin.ai, a product of Boyne Archives

acquired through a combination of benefices, since the parish priest is permanently established, in order to maintain the principle that, throughout the Catholic world, parish priests are permanently established, according to Boniface VIII, Cap. unie, de Capellis Monach. The Sacred Congregation of the Council had consistently adhered to this doctrine, as evidenced in Messana, March 18, 1854, § Atqui. However, a permanent removal cannot be justified, because it would amount to a true deprivation; and if it is to be temporary, it is inexplicable that it should last for eighteen years. The Sacred Congregation of the Council has customarily...

[*Latin ed. p. 38*]

38. If the parish priests, having been removed by the Congregation of the Council, are found to be innocent, they are to be reinstated immediately, as stated in the aforementioned decree of the Congregation of the Council, dated December 17, 1864. Furthermore, even in cases where serious accusations are made against a parish priest, measures should be taken to ensure fairness, such as mediation, as in the decree *Veglen. Privationis Parochae* of July 27, 1867, or the granting of a transfer with an equivalent benefice, if the Bishop deems the parish priest to be transferrable due to negligence and scandal, as in the decrees *EyStetten. Permutationes Paroeciae* of August 11 and September 22, 1742, in Limburg, dated December 19, 1857, and in *Herbipolen. Parochialis* of December 22, 1860. In the present case, if none of these measures are taken, the Bishop who defends Aloysius must be considered to have acted out of excessive zeal. His accusations are not sufficient to justify the dismissal, especially when considering the delegation responsible for financial matters, which is appointed for the purpose of dealing with such matters. Given these circumstances, it is clearly unjust to remove Aloysius, and therefore, he has a legitimate right to the restoration of his position, as well as to compensation for damages and the restitution of benefits. The harsher treatment of Aloysius by the Bishop stems from the fact that the Bishop himself confessed that he had previously refused Aloysius a better benefice or position. Finally, it is demonstrated through the presented evidence that Aloysius has, in fact, spent a considerable sum of money in purchasing Church furnishings, and that a suitable replacement for the parish's patrimony has been provided, as confirmed by the testimony of the Curia itself. Therefore, it is argued that the reinstatement of Aloysius is justified, and that no harm will be done to the economist who is temporarily appointed to administer the parish. Even if Aloysius declares himself content with the temporary provision, the Congregation should formally pronounce the reasons for his removal, as in the decree *Veglen. Privationis Parochae*.

[*Latin ed. p. 39*]

From the records of the parish of media, dated July 27, 1867, in which

Translated by churchlatin.ai, a product of Boyne Archives

a response was given to the question: "Does a just cause exist for the removal from the parish, or rather, is there a place for reintegration in this case?" The response was: "No, to the first part; regarding the second, after considering the declarations made by the Priest Joseph, it is postponed, and it should be written to the Bishop, with the understanding that the Bishop should propose to media the means by which Joseph might receive suitable provision." The cause was again discussed, and the following resolution was reached: "There does not exist a just cause for the removal from the parish. However, considering all the circumstances present in this case, a suitable pension of two hundred and fifty Italian livres should be assigned to the Orator, in place of the patrimony from the parish revenues, until otherwise provided, with the agreement of His Most Holy Eminence."

From these, one can gather:

I. A parish priest cannot be canonically punished by the deprivation of his parish, unless for a canonical cause and with the proper procedure observed.

II. One will find, in the Synoptic Exposition of the Causes of Herbipole, Parochial, December 22, 1860, and Veglen, Deprivation of the Parish, July 27, 1867, the latter in Volume II, page 513, and the former on page 68, Volume V, of this publication, accounts of similar cases. In the first, one also finds summarized the causes of the same nature, which are also mentioned in the present account: Eysietten, Permutation of the Parish, July 21, August 1, and September 22, 1742, and Limbergen, Permutation of the Parish, June 27 and September 19, 1857. In the latter case (Veglen, Deprivation of the Parish), the Constitution of Innocent III is extensively cited, which is found in the Decretals, chapter 23, on Accusations, and chapter 7, on the Restoration of Spoiled Goods.

By comparing case to case, one would find that the Bishops have provided more serious causes for the removal of parish priests than were present in the case of the parish priest A. F., whose accusations were all reduced to a defect of mind, indicative of a lack of seriousness. However, the more serious the circumstances that occur in the case, the more clearly the mind of the Sacred Congregation is revealed, which has consistently disapproved of the removal of a titular parish priest, whenever the causes were not those expressly stated by the Council of Trent, or when the necessary regular process for removing a titular parish priest had been omitted. Nevertheless, considering the particular circumstances present, the Sacred Congregation deemed it advisable to consider the good of the people and the honor of the parish priest, either through the permutation of the benefice or through provision, by means of the establishment of a suitable pension.

[*Latin ed. p. 40*]

From the Sacred Congregation, Decree 40, it does not present a reason-

Translated by churchlatin.ai, a product of Boyne Archives

able cause for the removability of a parish priest. III. Sometimes, the removal [of a priest] is sustained due to the aversion of the people or the incompetence of the priest. IV. In the case of removal, the causes did not exist; but such circumstances occurred as strongly suggested the priest's reinstatement. V. The Sacred Congregation, having acted according to established custom in similar cases, provided the priest with a suitable provision.

ANTICIPATION OF MATINS.

On August 14, 1875, the Rector of the Concatedral Church of M., through a humble letter dated December 10, 1874, presented to the Most Holy Father the following:

"For seventy years, in the Church of the Concatedral of M., formerly the Cathedral, the custom of reciting Matins with lauds [prayers of praise] the day before Vespers has been observed, although a document containing a papal rescript and a privilege has not been found, even though the canons of the chapter assert that they have seen and possessed it. But, since such a practice is found to be contrary to the Sacred Canons, in the case where the privilege does not exist, the canons of said Church, having held a congregation on the ninth of this month, earnestly request Your Holiness to grant them, with regard to the past, an Apostolic dispensation, and for future times, to deign to grant them the permission to recite Matins with lauds throughout the entire year. And they are prepared to offer certain motives that may truly move the benevolent heart of Your Holiness."

[*Latin ed. p. 41*]

4. Concerning the anticipation of Matins: A synopsis of what is said against the concession of grace. Cardinal Bona, in his *Tractatus de Divina Psalmodia*, chapter 4, section 3, number 2, states: "Formerly, Christians recited three nocturns during the night, and the fourth vigil was for Lauds. Such was the fervor of charity that they would rise three times during the night to pray; the first vigil for the first nocturn, the second for the second, the third for the third, and the fourth for Lauds, either all together or divided into groups." From chapter *De celebratione Missae*, it is stated that Matins was to be celebrated in the middle of the night: "Concerning the nocturnal vigils, the same Prophet says, 'I rose in the middle of the night,' therefore, at these times, let us offer praise to our Creator for the judgments of His justice." St. John Chrysostom, in his Homily 57, conveyed the same meaning to the people of Antioch, saying, "It should be given to them at the cock's crow." However, such a strict discipline of the Church was relaxed in subsequent ages, and the time for Lauds was established at the dawning of light. Chapter 1, concerning the celebration of Mass. After completing the morning office, the priest performs the hours of his service, namely Prime,

Translated by churchlatin.ai, a product of Boyne Archives

Terce, Sext, None, and Vespers, but in such a way that the proper hours are observed. "Seven times a day," says Monacelli in *Form. Legal*, title 16, number 7, "we should recite the Psalms to remember the Passion and Resurrection of Christ. Indeed: 1. At dawn, the Church celebrates Matins, because at that time, having been notified of the Resurrection by the Angels, the disciples were filled with joy, and those who had stumbled were raised up. Therefore, in the Matins hymn, it is said: 'He has raised the horn of salvation in us in the house of David, his son.' 2. Prime is recited, because at that time, the Lord Jesus was betrayed and delivered bound to Pilate. Also, at the same hour, after the Resurrection, He appeared to seven disciples fishing on the shore, standing on the beach and saying, 'Have you caught anything?' 3. Terce is recited, because at that time, the Lord was crucified according to the words: 'The Gentiles are their enemies, and their weapons and arrows, and their tongue is a sharp sword.' Also, at the same hour, on the day of Pentecost, the Holy Spirit descended upon more than two hundred men in the Cenacle in Sion, in tongues of fire. 4. Sext is recited because..."

[*Latin ed. p. 42*]

From the Sacred Congregation, in the first session of the Council of Clementines, under the same title concerning the celebration of Mass, the following is found: "We decree that those to whom it pertains, lest through negligence or injury, should diligently attend to it, that in Cathedrals, and in Regular and Collegiate Churches, the Psalms be recited at the appointed hours." Braschius writes in the Synodical Manual, chapter 86, number 18: "The Bishop should order that Matins be recited in the Cathedral in the morning of the proper day, and not in the late evening after Vespers and Compline." Monacelli, in the Legal Form, title 16, number 8: "But because our sloth and weakness do not allow us to offer praise to the Lord seven times a day with this interval, let us at least, by example of David, recount His wonders, that is, let us recite Matins in the morning; near midday, the Hours; in the evening, Vespers with Compline; for we must not only do what is fitting, but also do it in the manner that is fitting." Similarly, Saint Charles Borromeo, in the Council of Milan, paragraph 2, commands: "Matins should not be recited in the evening, except on the days of the Octave of the Solemn Feast of Our Lord Jesus Christ, and on other days for which it is permitted by the custom of the Church of Rome." Ferraris, in *V. Matutinum*, 1, writes: "In the Cathedral, it must be recited in the morning, and not in the evening for the following day." The Sacred Congregations, Edict and Regulations in Vercelli, November 25, 1578; the Congregation of the Council also rejected the requested anticipation. "The Lord was stretched out on the wood, and given vinegar to drink, and darkness came over all the earth." Hour 3. We recite the Hours, because at that time the Lord Jesus, inclining His head, gave up His spirit, and pierced by a spear,

Translated by churchlatin.ai, a product of Boyne Archives

He offered us the two sacraments of our salvation; the veil of the Temple was torn, the earth shook, the rocks were split, and the monuments were opened. Hour 6. We recite Vespers, because at that time the Lord in the supper gave His Body and His Blood to His disciples under the form of bread and wine, and instituted that He should be remembered in this way forever. At the same hour He was buried, and at the same hour He was recognized by the disciples in the breaking of bread. At the 7th hour, at twilight, we recite the Hours, because at that time the Lord, in His agony, prayed long in the Garden, and His sweat became like drops of blood falling to the earth. At the same hour He was betrayed by the guards, and at the same hour, with the doors shut, He stood in the midst of His disciples, and said: 'Peace be with you.'"

[*Latin ed. p. 43*]

Anticipation of Matins, as is seen in Pannens, May 31, 1794. Gury, Theologia Moralis, Tractatus de statu particulari, point II, states: "The time for completing the recitation of the entire Office begins from midnight and ends at the following midnight." However, with the passage of time, it is known that a custom arose whereby Matins and Lauds were recited after sunrise in the choir by the secular Chapters, as testified by Benedict XIV, Instit. Eccles. 107, § 4, no. 22. Fagnan teaches that this custom should be observed in every way, Lib. I, Decretal. Cap. De Consuetudinibus. Therefore, it seems that nothing should be attempted against it for the convenience and benefit of the Canons. Furthermore, if it were permissible for the Chapter to recite Matins with Lauds before Vespers, a manifest impropriety would follow. For many of the words in the Psalms, hymns, and prayers make mention of certain times, such as night, dawn, and if these are used at inappropriate times, they are not suitable. Schmalzgrueber, vol. 3, part. 5, title 41, de celebratione Missae. Therefore, St. Charles rightly decreed in the aforementioned Synod: that Matins be recited either at midnight, or at least at a time such that it is completed before sunrise. It is not considered to be contrary that those Chapters who are engaged in divine offices should primarily consider the spiritual good of the Christian people, and therefore, the divine hours should be recited at a more convenient time, rather than very early in the morning. Indeed, it is beyond dispute that the principal duty of the Canons is to recite the praises of God in the choir. Therefore, it is written in the Synod of Aix-la-Chapelle that the canonical hours should be guarded with the utmost care and recited devoutly by the Chapters. And the Council of Trent decreed that the Canons, instituted to chant in the choir, should offer hymns and canticles to the name of God.

[*Latin ed. p. 44*]

44. They should praise the Sacred Congregation with the utmost reverence; and, as prescribed by the Church, they should fulfill the appointed

Translated by churchlatin.ai, a product of Boyne Archives

hours of the Divine Office. Therefore, it is undoubtedly a principal obligation of the Chapters to recite the Psalms of Lauds with alternating verses. Furthermore, it is desirable that the Christian people should care for their spiritual well-being. Consequently, the principal obligation should not be considered as merely an accessory. THOSE THINGS WHICH ARE ADVANCED FOR THE GRANTING OF INDULGENCES. On the other hand, it has been observed that, if a just and reasonable cause exists, a more suitable variation may be instituted, whether concerning the Matins or the recitation of Lauds. For this matter, one may consult Brasch in Prompt. Synod. Cap. 86, no. 18, Ceccopieri, Lib. 2, no. 20, Benedict XIV, Instit. 107, § 4, no. 22. However, among the just and reasonable causes, the inclement weather, which is harmful to the health of the body, and the advancing age of some individuals should be included. It can be gathered that the Sacred Congregation has acted in accordance with this doctrine, as can be seen from numerous resolutions that could be cited. From these, it is permissible to conclude that the Sacred Congregation has had reasonable causes for granting permission for the Matins and Lauds to be recited in advance, as is evident in Cingoli, March 29, 1817, in response to question 11, in Casale, December 14, 1822, and among others, especially in Modena, November 12, 1644, where we read these words: "The Sacred Congregation judged that the requested permission to recite Matins should be granted to the lecturers, at the discretion of the Bishop, provided that the third hour after midday has passed." Finally, we read that such an Indult was granted to the Canons of the Cathedral of Pavia, from which arose many disputes between the Chapter and the Bishop, which were subsequently resolved by a Brief issued by Benedict XIII to the Bishop of Pavia on July 8, 1726.

[*Latin ed. p. 45*]

The anticipation of Matins, which was at 4 o'clock in the morning, allowed the Bishop, by his discretion, to grant or deny the request of the Canons. The Cathedral Prefect, Master [Forename], testified to the reasons for this, stating these words: "Indeed, in this chapter there are some elderly individuals, and such will be repeated in the future, for whom it is difficult to rise at such an early hour in the winter." Furthermore, he added, "Since this city is located near the Mons, the north winds are particularly strong at this time of year, and they often blow with such violence that even for younger people, it is difficult to reach the Church." And it seemed that the speaker's request should be granted, given that the recitation of Matins follows the preceding Vespers. For, concerning the recitation of the Divine Office, and other ecclesiastical celebrations, the day begins from the Vespers, as Saint Thomas teaches in the *Quodlibet*, 5th question, 13th article, 28: "As for contracts, and other similar matters, the day begins from midnight, but as for the ecclesiastical office, and the celebration of solemnities, the day begins from Vespers; therefore, if someone recites Matins after the Ves-

Translated by churchlatin.ai, a product of Boyne Archives

pers and Compline, it already belongs to the following day." This doctrine was illustrated by Azorius in *Institutiones Morales*, volume 1, book 10, chapter 9, question 5. However, there was no lack of a more serious reason to grant the Apostolic permission to the Canons: as is evident from the speaker's words, added in a separate document: "Because of the scarcity of priests, if all were present at the choir during Matins, it would be difficult to celebrate the Holy Mass with the convenience of the faithful who are obliged to attend on feast days, and also of those who are accustomed to hear it on weekdays." Moreover, if the Canons were granted the faculty of fulfilling their canonical hours during the evening, this inconvenience would completely disappear, and all the faithful would be able to attend Mass every Sunday, on feast days, and also on weekdays.

[*Latin ed. p. 46*]

46. From the Sacred Congregation, it seemed more fitting to proceed in this manner. The General Vicar approved the petition of the Canons, judging that the reasons they presented were true. To all of this was added the most ancient custom, which prevailed within the Chapter, concerning the recitation of Matins on the following day at the appropriate hour, according to the preceding days. This custom is to be considered as having been introduced by an Apostolic Indult, both through the words of the Capitular Dean, who stated that he had seen and experienced it, and through the actions of the Bishops. For, without doubt, the Bishops would have rebuked the Canons lacking Apostolic permission, since they themselves are the guardians of the sacred canons. Therefore, since they had witnessed and remained silent for seventy years, it is clear that they did not doubt the existence of such a privilege. Considering these reasons, it seemed fitting to grant not only a modification of the Matins and Lauds, but also an absolution with regard to the past, to the extent that it was necessary. Indeed, it is a well-established principle in law that absolution should be granted from burdens not fulfilled, whenever no deceit has intervened in the omission. Certainly, no deceit or fraud was found among the Canons; rather, it was evident that they were acting in good faith, believing, after having completed Vespers with the Compline, that, through the grace of the Apostolic Indult, they had fulfilled their choral obligation. After considering these and other arguments from both sides, the following two propositions were to be clarified. I. Whether and how absolution should be granted in this case. II. Whether and how an Indult for the anticipation of Matins should be granted in this case. RESOLUTION. The Sacred Congregation, on August 14, 1875, having considered the matter, judged it fitting to respond as follows: To I: Affirmative, with the caveat that it be done with the approval of the Most Holy. To II: Affirmative, for a period of ten years, at the discretion

Translated by churchlatin.ai, a product of Boyne Archives

of the Bishop.

[*Latin ed. p. 47*]

Anticipation of Matins and Lauds.

I. Canon regulars are not only obligated to recite Matins and Lauds, but are also bound to fulfill this duty at the times prescribed by law; for it is not enough to do what is fitting, but it must be done in the manner fitting.

II. The times prescribed for the canonical hours are from midnight to midnight, for the proper and fitting performance of the recitation of the canonical hours in the choir.

III. However, a more suitable variation may be instituted by just and reasonable cause; both with regard to the recitation of Matins and Lauds in the choir, by a special privilege, granted by pontifical indult.

IV. Among the just and reasonable causes for which the privilege of anticipating Matins is often granted, are to be counted inclement weather, the harshness of the region, and also the advancing age of some of the canons.

V. A pontifical indult conferring such a privilege is sometimes perpetual, and sometimes temporary, according to the cause, whether temporary or perpetual, that has been presented.

VI. The causes for temporary and variable variations are: a small number of servers, the advancing age and infirmity of some of the canons, and also the necessity of administering the sacrament of Penance by the capitulars.

VII. Therefore, a pontifical indult is not usually restricted by any time limit, if the cause of the concession is of a perpetual nature, such as inclement weather, the harshness of the region, and the mountainous location.

[*Latin ed. p. 48*]

FROM THE DECREES OF THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS, CONCERNING AGREEMENTS OR COMPROMISES. Dated December 18, 1874, and July 30, 1875. A summary of the case. A noble young woman, Thérèse A., although the only daughter of her parents, desiring to serve God, on October 9, 1848, received the religious habit in the Monastery of the Most Holy Trinity of the Poor Clares in the city of E. After completing her novitiate and having pronounced her solemn vows, she sent a messenger with a notification of the inheritance which had come to her from her deceased father, and of all that she could obtain from elsewhere, in favor of her mother, M. However, she accepted the monastic dowry and the legacy of 1000 pounds sterling received from her maternal grandfather, as well as 100 pounds sterling left by two paternal friends to increase the monastic dowry, as her mother had established in 500 pounds sterling with a mortgage. The formal act

Translated by churchlatin.ai, a product of Boyne Archives

of renunciation took effect immediately, as soon as Thérèse pronounced her solemn profession, according to the prescriptions of Holy Canon Law. However, due to political upheavals, a strong controversy arose between the noble young woman and her relatives, after the Monastery of the Poor Clares was suppressed by force of civil law. The cause of this controversy was due to the reservations which the young woman made when issuing her renunciation. For, foreseeing the possibility that the aforementioned Monastery might be suppressed, she stipulated that, if the 1000 pounds sterling were to pertain to her in ownership (which she did not know), then she should cede the usufruct of them in favor of her relatives and their descendants forever, with the obligation of preserving them.

[*Latin ed. p. 49*]

The Concordat or Compromise of the 49th [article] had this monetary effect for the Monastery. Regarding the entirety of the goods, however, she reserved for herself, during her lifetime, the usufruct of all goods which would fall under the donation, and the renunciation [of rights]. Things proceeded peacefully until the 10th of October, 1873, at which time Mother Teresia died. For this universal heir of all her goods established her nephews, the sons of her brother, with the obligation of providing, for as many years as her daughter Teresia should live, bonds of 250 [lira] for the prayers to be offered for the salvation of her soul. Already, the laws of the Italian Government had taken effect when the noble woman died, and her will was made known. And through such laws, the monastery remained suppressed, and it was permitted to each member of the monastery to enjoy civil and political rights. Therefore, taking advantage of this opportunity, and having before their eyes the reservations made, and considering that no suggestion of a donation had been made as the Gregorian Code ordered to be made regarding a donation which exceeded 500 [scudi], certain lawyers issued a judgment stating that the donation of paternal goods beyond five hundred [scudi] was null and void, and that the daughter Teresia could obtain half of the mother's goods by virtue of the Italian Code. Grave disputes arose concerning this matter between Teresia and her cousins, until the Bishop E., with his authority and mediation, both parties signed the Act of Concordat or Compromise on the 11th of November, 1873. The tenor of which was as follows: that from the aforementioned estate, after the debts are paid, Teresia would receive half, in addition to the bonds of 2500 [lira] which were owed to her by virtue of the instrument of 1849; that the expenses of the funeral and of religious services would be placed among the common debts of the estate. They also agreed that the property of S. and the suburban estate, with all its appurtenances, would form part of the estate belonging to the monastic

Translated by churchlatin.ai, a product of Boyne Archives

cousins. Acts, Vol. IX, p. CVII.

[*Latin ed. p. 50*]

50. From the Apostolic Constitution concerning Bishops and Regular Canons. However, since the Concordat had not yet received formal execution, both parties, guided by the spirit of penance, withdrew from it. Both parties issued protests, asserting that the colonists should recognize each other as the sole and legitimate owners. At that time, the nun, Teresa, with the favor of herself and of the Monastery, presented a petition to the Most Holy Prince, in which she demonstrated that the ancestral estate was vitiated in substantial matters; that the donation was null due to lack of notification; that she had entered into the act of donation through error, since, contrary to truth, the ancestral estate was burdened. Therefore, the humble petitioner requested that the Most Holy Prince would validate the aforementioned Concordat, and would grant her the right to reduce it to a public form in her own name. Almost at the same time, the other party also claimed that the donation, renunciation, and testament were entirely valid; that they had entered into the Concordat agreement compelled by necessity and ignorance of the laws. Therefore, they requested that the nun be summoned before the Most Holy and Reverend Congregation, in order to achieve a Concordat that would be more equitable to both parties, and also in accordance with the order of law. The Bishop, when asked for his opinion on this matter, demonstrated that the Concordat had already been completed and was beneficial and convenient to both parties, and that the reasons presented by the petitioner were in vain. However, in the meantime, the question was referred by both parties to the Most Holy Congregation. The Congregation, as is customary, granted both parties a term of one month to present their further claims. Synopsis of the Dispute. THOSE ARGUMENTS WHICH ARE OPPOSED TO THE NECESSITY OF NOTIFICATION. It was observed that, according to ecclesiastical law, certain dispositions issued by the Sacred Canons, and those retained by the Most Holy and Reverend Congregation, were not without reason.

[*Latin ed. p. 51*]

Concerning agreements or compromises, 51, it is necessary to observe the principles pertaining to civil law formalities regarding donations exceeding 500 scudi. It is therefore necessary to determine whether such formalities can have any effect concerning donations and renunciations, before the solemn vows are taken. And in addition, if civil formalities are lacking, it seems that only the provisions of the Sacred Canons and the resolutions of the Sacred Congregations should be observed, as stated in the Council of Trent, Session 25, chapter 16, concerning regulations. No renunciation or obligation made beforehand, even with an oath, or in favor of any pious cause, shall be valid unless it is made with the permission of

Translated by churchlatin.ai, a product of Boyne Archives

the Bishop or his Vicar within two months preceding the profession; and it shall not be understood to have any effect except after the profession; otherwise, any such act, even if made with an express renunciation, even sworn, shall be void and of no effect. From this, it is easily understood that any renunciation lacking the permission of the Ordinary, and which does not fulfill the other conditions prescribed by the Council of Trent, shall be invalid. Furthermore, it is taught by Giovio in his *Tractatus de solemnitatibus in contractu minorum*, Gloss. XVI, § VII, n. 280: "But after 'entry into religion, if one wishes to renounce before 'profession, within 'two months before, he is not required to 'use the solemn formalities, but it is sufficient 'to have permission to renounce from the Bishop 'or his Vicar." And Cardinal De Luca, in *Titulus de conflict. legis*, says: "Where the 'formalities are fulfilled (namely, those required 'by the decree of the Council of Trent), it is 'reasonably accepted that those formalities 'which are required by common or local 'laws in contracts and alienations involving 'minors and women, are not required, either 'because that status implies an exemption 'from such laws, or because it is sufficient 'to fulfill the conciliar form, so that a 'double burden is not imposed." Similarly, the author himself considers such...

[*Latin ed. p. 52*]

From the Decrees of Bishops and Regular Canons, it is stated that renunciations pertain to the nature of donations made for the cause of death, as cited in *Discipline* 1, title on renunciations, page 14: "These dispositions have the nature of donations made for the cause of death, or of last will and testament, and they are not dissolved by the profession in Religion; therefore, they do not impose upon the one who renounces that irrevocable prejudice, for which reason solemnities are usually required." And in *Discipline* II, a reason is given as to why such renunciations are truly renunciatory, and their cause lies in this, that the religious person spiritually dies to the world "thereby." Therefore, "n. 2, the presumption of reality enters in, because it is known that the principal motive of the renunciation has been the love of God, and the abrogation of temporal goods, so that he may more readily dedicate himself to God." And Petra, in *Commentaries* on the Apostolic Constitution, book 3, page 386, n. 59, it may also be asked whether novices are bound to observe the solemnities of law or the statutes in renunciations or other obligations beyond the form prescribed by the Council: and the answer is NEGATIVE; because it is sufficient to observe the conciliar form, both because it would have been a futile and harmful disposition if such dispositions were to be bound to lay orders by certain solemnities, and also because novices are considered to be under the jurisdiction of the Church and are therefore exempt from lay law, and since they are presumed to be fifteen years of age, according to the Council, this is sufficient for them to be naturally capable of contracting. Fagnanus,

Translated by churchlatin.ai, a product of Boyne Archives

chapter on statutes, n. 4, and Barbosa, ad chapter 16, citing the Council of Trent, and others. This doctrine is in agreement with the decisions of the Holy See, and excludes the insinuation whenever the donation is based on a just cause. Decree 513, before Marini, Bishop of Spoleto, regarding the nullity of a donation, June 25, 1841: in this decree, n. 1 and 2, it is stated that, in the presence of a pre-existing cause, there is no need to inquire about the insinuation in order to make a donation beyond five hundred valid. "Therefore, because, above all, considering the common law, the obligation to insinuate the donation has been imposed, so that the do-"

[*Latin ed. p. 53*]

Concordiae seu compromissi 53: « Those who, either by the impetuous force of excessive benevolence towards the recipient, or by the allurements and deceitful machinations of others, are rashly and inconsiderately drawn into making donations, may be reduced to poverty and ruin. For it is to the interest of the commonwealth that no one abuse their property. » Tandem, 9. « However, the situation is different with regard to donations made in order to reward the merits of the donor, which are sought either from a grateful heart, rather than from liberality, or which carry with them some obligation or burden for the donor to fulfill; or finally, when they are made for a necessary cause, which is to the advantage of the donor. In these cases, a renunciation is by no means required by common law, and is not legally binding. » Richer, *Institutiones*, lib. I, f. 13, § 1934. *Rota Bononiensis*, assignamenti 26 Februarii 1776, coram Soderin, § 3. Furthermore, we know that Ptolemaeus made a solemn profession long before the death of his mother, and just as a profession, for all legal purposes, is equivalent to natural death, it follows that the same Ptolemaeus, concerning the inheritance from his mother, cannot legitimately obtain either the full inheritance or usufruct, for a parent dying leaves a solemnly professed son as if he had died without a son. To all these authorities of the Canonists, and the decisions of the Rota, it must be added that donations of this kind are not properly considered liberalities made between living persons, but rather are resolved into donations *causa mortis*. Indeed, renunciations only take effect upon the completion of the profession, in the same way that a will takes effect upon the death of the testator. Therefore, just as women and younger individuals are not bound by the solemnities prescribed by the legislative regulations, so too they are not bound by them with regard to renunciations made upon entering religion. For if one does not make a profession, their renunciation has no value; but if they make such a profession, they lose, by law, the ability to possess and retain property. »

[*Latin ed. p. 54*]

54. From the Decree of the Council of Trent concerning Bishops and Regular Canons, it is stated that if anyone should make a renunciation, the

Translated by churchlatin.ai, a product of Boyne Archives

rights of that renunciation pass to those to whom it is made, or revert to the Monastery; therefore, the formality of an inquisition would be superfluous, provided that there is a legal necessity equivalent to the final dispositions made for the cause of death. Therefore, considering the nature of these donations and renunciations, they do not appear to be included under the same law, except by derogating from the common law and the principle by which each person is the master and arbiter of their own affairs; nor could the aforementioned Regulation be considered, in which only donations made between living persons are discussed. Furthermore, the principle followed in practice by the Sacred Congregation of Bishops and Regular Canons, as presented in the Urbino Decree concerning the renunciations of Novices of a younger age and Novices, is also relevant. In the plenary sessions of March 12, 1843, the following questions were proposed: I. Whether, for the validity of renunciations made by Novices and Novices of a younger age during their profession, the conciliar form is sufficient, or whether the formalities prescribed by the current judicial Regulation are also required. And, to the first part, the answer is negative; to the second part, the answer is affirmative. II. Whether it is necessary to validate previous renunciations made by those of a younger age at the Urbino Congregation, solely by observing the form prescribed by the Council of Trent? To these questions, the Fathers have responded: To I, affirmatively to the first part, negatively to the second part; to II, provision is made in the first. This resolution is of a general nature, and although prompted by a particular case, it can be applied to our case.

THOSE MATTERS WHICH REMAIN REGARDING THE NECESSITY OF AN INQUISITION. However, to demonstrate the necessity of an inquisition with regard to donations and renunciations made upon entering religion, it could be argued that a general rule should be observed, since Gregory XVI, in the aforementioned Motu Proprio, imposes the obligation of an inquisition, rejecting any other title. Therefore, it is fitting that he prescribed that donations be irrevocable.

[*Latin ed. p. 55*]

Concerning agreements or compromises among living individuals, if the amount exceeded five hundred scudi, they should be registered within six months; otherwise, their validity and effect are declared null and void. It appears to be the spirit of the Gregorian Code that the formalities of registration should be strictly observed, especially when it concerns the renunciation of property, and as stated in Title I, § 1, the Apostolic Constitutions will continue to serve as the norm for civil judgments in all matters not otherwise provided for. However, the absence of the required formalities is determined, and therefore, since it pertains to civil matters, it must be strictly observed under penalty of nullity. Consequently, the nun Theresa was bound to give to her nieces only five hundred scudi from her paternal

Translated by churchlatin.ai, a product of Boyne Archives

inheritance. Furthermore, it was stated that, setting aside the necessity of registration, the law of the Italian government had granted both men and women religious the right to enjoy civil and political rights. Therefore, just as a captive among the Romans, once freed from the bonds that held him captive by the enemy, was reintegrated into all rights and actions by the law of postliminy; so too, the nun should be reintegrated into her rights in the absence of registration. And the donation made by her would have no validity beyond five hundred scudi, under the favor of the mother. Having explained the principles concerning the defects of civil formalities, it seemed appropriate to explain the most important provisions that govern reservations included in instruments of renunciation, even though they were made by decree of the Judge and with the act of registration. The question was raised as to what the most important principles of canon law and the resolutions of the Holy Congregation are regarding implicit or express reservations, such as those commonly included in renunciations upon entering religion. Regarding implicit reservations, it was observed that they are based on the very nature of the renunciation, which is of strict law, and do not admit of cases connected with matters expressly reserved. Strickius, along with other doctors, in *Dissert. Iur.*, vol. VI, disp. IX, n. 51, writes: "Reservation..."

[*Latin ed. p. 56*]

56. From the Sacred Congregation of Bishops and Regulars: "The introduction of hereditary rights has established a conventional succession, and simultaneously, various kinds of succession agreements, which are commonly divided into acquired, conservative, dispositive, and renunciatory. Regarding renunciatory agreements, reservations are of the greatest importance, which, if added, preserve what is retained; if not added, according to the rule, renunciations must be strictly interpreted, and in cases they are not valid unless they are expressly stated, or which have a connection with what is expressly stated. Thomas Carleval, in *De Iudiciis*, title 1, dispute 2, number 138, states this, and so it is that, although a renunciation is conceived in universal terms, it does not extend to things unknown or unrecognized [15 *de trans.* L. 19 ff. *de inoff. test.*]. Nor does it extend to the inheritance to which it is renounced, if it does not pertain to it. Therefore, a sister is not protected if she renounces the inheritance of her father, even though it is from the inheritance of her brother, provided that only the father's goods are found in the latter. And the son retains his legitimate portion, even if he has renounced the entire inheritance. However, if the legitimate portion is reserved, they do not intend that he should abstain from the inheritance of his father [I. 1 and 2 ff. *de acq.* or *vel orniti, haer. ed.*]. Despite these things, it cannot be omitted that the Sacred Congregation of Bishops and Regulars resolved in Syracuse on December 2, 1842, concerning the right of recourse to goods in a renunciatory agreement.

Translated by churchlatin.ai, a product of Boyne Archives

A certain Oddus of Gaeta, for reasons of health, having left the religious life, although he had reserved for himself the right to return to his paternal and maternal possessions, the Congregation, when asked whether and how this right of recourse applied to a religious Oddus concerning goods renounced in this case, responded affirmatively only with regard to use and intention; the intention is that the use should be terminated by prudent counsel of the Ordinary for his proper support. Regarding such a reservation, the consulter, following a strict path, declared that recourse to donated goods is incompatible with a total and perpetual expropriation, which especially arises from a solemn vow, and therefore excluded any, whether explicit or implicit, re-".

[*Latin ed. p. 57*]

Concerning the Concordat or Compromise, 57. The doctrine inherent in the preservation of the Angelic Doctor's teaching, 2-2, question 186, article 1: The Lord said that for someone to attain perfection, he must follow Him, not in any way, but rather, he must not look back, as Luke 9:62 states: "No one, having put his hand to the plough, and looking back, is fit for the kingdom of God." And since preservation presupposes a firm will in the one who makes it, and which is opposed to the gift of perseverance. Quoted from Consultations, § 8, cited above: "Every religious person is obligated to 'stably, constantly, and perpetually maintain the manner of life once assumed, and to persevere in it until the end of life, so that it is no longer permissible to abandon the religious life.'"

Against the Concordat or Compromise, it is observed that a religious person, through the renunciation and solemn profession, can be considered to have died civilly, so that they have lost their will and desires, and the contracts made by them are of no consequence, as if they lacked legal personality. As Petra states in the Commentary on the Apostolic Constitutions, Constitution V of Benedict XII, section 1, number 43: "From these same fundamental principles, the defects of will and the inability to acquire them, resulting from the solemn profession, cause the religious to lose the ability to enter into contracts and to bind themselves. Nor can the other party, who has subscribed to the Concordat, be bound, because they were deceived by error. It is not permissible to say that they consented, for as Julian writes, those who are mistaken do not consent. For what is more contrary to consent than error, which implies ignorance, according to the law."

Furthermore, in favor of the Concordat or Compromise, the civil law provides that the legitimate portion and hereditary share is due to the children with full ownership.

Finally, it is well known that the fear of any question, even if doubtful, can be a cause for a transaction. As Urceolus states in De Transactionibus, part 1, question II, throughout, and number 26: "A doubtful matter in the

Translated by churchlatin.ai, a product of Boyne Archives

proposed subject is said to be expressed in many ways."

[*Latin ed. p. 58*]

58 From the Sacred Congregation of Bishops and Regular Canons, and initially when judgment was introduced concerning this matter, and a dispute arose, so that, while it remained undecided, a settlement was reached, the cause of which is the withdrawal from the dispute by both parties, abandoning expenses and legal proceedings, and the oath, which by itself is sufficient for the justice of the settlement, because great profit and advantage accrue to him who withdraws from the dispute, as stated in the *Summa* 65, principle, paragraphs, and number 38: injustice in a dispute does not prevent a true dispute from existing. However, in fact, a settlement should be pursued, both because each party would immediately enter into peaceful possession of their property, and because the Ordinary, having rejected contrary objections, demonstrated to both parties that such a settlement would be beneficial to them. Nor would a vow of poverty, or any independent renunciation, be of any avail, rendering one incapable of possessing property by oneself. A vow of poverty is a kind of civil death, because he dies in this world who renounces all dominion over worldly things. For property itself can be subject to the Holy See, which can dispose of it at its own discretion, leaving, for example, to a religious person a portion or the entirety of the property itself to have sustenance from it according to their condition. In a decree of the Sacred Congregation of Bishops and Regular Canons in the year 1820, a response was given concerning the acceptance of a fraternal inheritance, and concerning its disposition through acts between living persons, provided that the inheritance was divided into three parts: one to be given at the discretion of Maria Hyacinthae, another for pious causes, and a third to benefit either her or another from the reintegrated monasteries of the Diocese of Ferrara. The Most Eminent Marini, in his most learned opinion on this matter, observed that although a monk may be considered theologically dead to the world, he cannot be said to be civilly dead; for if he cannot do everything that other citizens can, it is because he has dedicated himself to the perfection of life and spiritual progress. He retains valid reservations under civil laws, and against donors, so that this would not deprive them of any acquired right. And after presenting several reasons, he decreed that reservations should always...

[*Latin ed. p. 59*]

Agreements or compromises, number 59, are valid for taking away goods from those who have renounced them; but they cannot grant the ownership of those goods to the hands of monks, even if they are outside the monastery, without fault. Therefore, the ownership of these things will remain either with the proper religious order, if it still exists,

Translated by churchlatin.ai, a product of Boyne Archives

or with that to whom it would belong if the monk were to declare, at the time when the reservation becomes operative. With these premises established, the esteemed Consultant deduced the following conclusions. 1. All renunciations made on the occasion of religious profession implicitly contain a reservation, for the case of a lawful departure from the monastery, without the fault of the one renouncing, to return to the goods later, after they have been delivered and not yet sought by another. 2. In all renunciations with a reservation, in the case mentioned above, such a reservation must be operative against the recipients or those renouncing, for each effect of the renunciation, without any distinction of time. 3. The effect of these reservations, even though they are conceived in words that accompany the profession, cannot alter the transfer of ownership of the same goods, by the operation of law and legal disposition, independently of the will of the one renouncing, who materially can retain the goods, in order to draw sustenance from them, if he cannot obtain them from elsewhere, and unless the Apostolic Indult of secularization or the Bull of suppression provides for this. With these matters brought forward for both sides, it was subject to the judgment of the Most Eminent [authorities] to resolve the doubt as to whether and how the compromise of November 11, 1873, is to be understood in this case. RESOLUTION. The Sacred Congregation of the Eastern Churches and the Holy Roman Church, having knowledge of the matter, considered it appropriate to respond on December 18, 1874: Attentive to the particular circumstances...

[*Latin ed. p. 60*]

From Section 60, Chapter on Bishops and Regular Canons, it is not established that the Concordat, or compromise, is null, given the circumstances present in the case. PROCEEDING OF THE CAUSE. But, not discouraged, the community of Aversa implored and obtained a hearing, already for the purpose of subjecting the aforementioned resolution to further review by the Sacred Congregation. The community, in turn, declared in a second petition that it fully and willingly accepted the aforementioned resolution, and requested its confirmation by a rescript: "In decisis et amplius." The Sacred Congregation, after again discussing the case on July 30, 1875, responded: "In decisis et amplius." FROM WHICH IT MAY BE GATHERED: I. It is permissible for concordats, or compromises, to be made by parties in dispute, while their litigation remains undecided; because by withdrawing from it, expenses and quarrels are avoided; which alone is sufficient for the justice of a transaction. II. According to the Doctors, nothing prevents a monk, before entering, from donating or renouncing his goods, provided it is done in a resolutive manner: so that, when the final cause of the donation or renunciation, which existed prior to his religious entry, ceases, the effect of the donation or renunciation also ceases. III. All donations and renunciations, made upon the occasion of a religious profession, implicitly contain

Translated by churchlatin.ai, a product of Boyne Archives

a reservation (for the case of a lawful departure from the monastery) of the right to return to the goods later, if they have not been otherwise acquired. It is said that a final renunciation is lacking for a monk in the following circumstances: either if the Order is legitimately suppressed; or if, for some reason, pertaining to the individual himself, the Supreme Pontiff allows him to live outside the monastery; or if he is raised to the Episcopal dignity; or finally, if a higher power (and *de facto*, as now happens among us, acting under the name of law) forcibly removes him from the monastery, and he has no hope of obtaining sustenance from his monastery, or if he is violently despoiled or legitimately suppressed. For a monk is not considered to have been despoiled of his own goods, unless he is deprived of the means of obtaining sustenance; because perhaps he never aspired to a life of higher perfection, but completely committed himself to the charity of others, obtaining food and lodging.

[*Latin ed. p. 61*]

VI. It is more strongly so when an explicit reservation precedes the act; for in this case, the goods given or disclaimed are not irrevocably acquired by the donee or the disclaiming party, because they received them from the beginning under that condition.

V. Therefore, once the condition under which the Monk made the donation or disclaimment is fulfilled, the disclaimment and the donation are immediately annulled, and all right of the donee or the disclaiming party remains dissolved; and the Monk has the right to reclaim the goods, even if they have been acquired by another or transferred to third parties.

VI. However, the agreement for the possibility of recovering the goods must be understood in such a way that it can be effective (lest it be corrupted, but rather have force), namely, if an Apostolic dispensation is added.

VII. The dominion over the reclaimed goods does not absolutely belong to the Monk; but rather, it belongs to his Religion, if it exists, or to the person to whom it would belong if the Monk were to claim it at the time when the reservation becomes operative.

VIII. Meanwhile, nothing should prevent the material retention of the reclaimed goods remaining with the Monk, so that he may draw sustenance from them, which the Monastery ought to have provided him, and which has been lacking to him without his fault.

IX. Theologically speaking, the Monk can indeed be said to be a "dead man to the world," because he has renounced the world, together with all that is in it; and Pope Eugene says in Can. VIII, q. I, Caus. XVI, "the dead man lives for God."

X. However, according to some Canonists, it cannot be said that a Monk who has made his profession is a dead man, because civil law itself leaves

Translated by churchlatin.ai, a product of Boyne Archives

him some rights intact even after his profession.

XI. The reservation against the donee or the disclaiming party becomes operative immediately upon achieving its intended effect, that is, when the act to which such a reservation was attached is rendered null and void, as if it had never existed.

XII. According to the most learned men in Canon Law, the civil death of Monks is nothing other than a mere commentary, unless one were to say that it is a grievous injustice.

[*Latin ed. p. 62*]

From the Index of Prohibited Books, Decree XI. Indeed, there is a great difference between professed monks and those who are civilly incapacitated, with regard to civil rights; for the former, indeed, are supported by the renunciation of temporal goods, in order to serve God more freely; while the latter are the consequence of a heinous fault.

FROM THE DECREE OF THE SACRED CONGREGATION OF THE INDEX. Tuesday, December 6, 1875. The Sacred Congregation of the Most Eminent and Reverend Cardinals of the Holy Roman Church, to the Most Holy Lord, our Pope Pius IX, and to the Holy Apostolic See, concerning the Index of books of corrupt doctrine, and their condemnation, proscription, expurgation, and permission throughout the Christian Republic, having met in the Apostolic Palace at the Vatican on November 6, 1875, condemned and condemns, proscribes and proscribes, and orders that the following works be referred to the Index of Prohibited Books:

CECCHETTI, BARTOLOMEO. *La Repubblica di Venezia e la Corte di Roma ne' rapporti della religione.* Vol. 2. Venice, published by P. Naratovich. 1871.

La Foi et la Science, explosion de la libre Pensée. This work, imprudently published by some Canonist, and collected by those who have forgotten that religious orders have always promoted civil society, has applied harsh civil consequences to those who have made religious vows, depriving them even of those rights which the laws themselves left untouched.

[*Latin ed. p. 63*]

Decree of August 6th and September 1st, 1874. Annotated discourse by Messrs. TYNDALL, DU BOIS REYMOND, OWEN, HUXLEY, HOOKER, and Sir JOHN LUBBOCK, by the Reverend Abbot MOIGNO, canon of Saint Denis, Editor-in-Chief of *Les Mondes*. - Paris, 1875. Volume in 8 pages, XXIV, 216 pages. This work is condemned according to Rule II of the Index of the Council of Trent, but not on account of the notes and preface of the editor. *Risposta all'Orazione di Monsignor Lucido Parochi Vescovo di Pavia, detta nella chiesa prepositurale di San Francesco l'otto dicembre 1 8 7 2 e pubblicata nel 1 8 7 3 sull'immacolata Concezione di Maria.* That is, a repetition of the Protestation with its justification against the new

Translated by churchlatin.ai, a product of Boyne Archives

and false dogma of the Immaculate Conception of Mary, and a Protestation against the other new and false dogma of the infallibility of the Pope when he speaks from the Chair, which the priest Giuseppe Grignani, one of the excommunicated priests, also publishes in the name of other faithful Catholics of both sexes. - Pavia, 1874, by the printers of Bizzoni. This work is condemned according to Rule II of the Index of the Council of Trent. - Decree of the Sacred Office, February 21st, 1875. *L'anima Santissima di Gesù Cristo mostrata nella sua vera origine e grandezza. Contemplazioni dedicate agli amanti della medesima per Giovanni Battista Pritoni (Minore Osservante e chiamato Padre Pio da Bologna).* A pamphlet. - Bologna, 1871, by the printers Giacomo Monti. Decree of the Sacred Office, September 9th, 1875. The author of the work entitled: *Programma sul diritto ecclesiastico*, by CARLO CUCCA, who, according to Decree of December 19th, 1861, commendably submitted it and disapproved of the work. Therefore, no one of any rank or condition may dare to publish, or, once published, to read or retain the aforementioned works, in any place, or in any language, but must deliver them to the Ordinaries of the places, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books.

[*Latin ed. p. 64*]

64 From the Sacred Congregation of the Holy Office, by which the Most Holy Pope Pius IX, through me, the undersigned, having received secret information, approved the Decree and ordered it to be promulgated. In whose faith, etc. Given in Rome on the 7th of December, 1875. Anthony, Cardinal D.E. LUCA, Prefect. Father Jerome Pius Saccheri, of the Order of Preachers, Secretary of the Congregation of the Holy Office. L. F. F.I. On the 13th of December, 1875, I, the undersigned, Master of the Rota, testify that the aforementioned Decree was affixed and published in the City. Philip Ossani, Master of the Rota.

FROM THE SACRED CONGREGATION OF ROME, DECREE. Since a question has recently arisen among the Theologians of the City, namely, whether the reservation of cases made to Bishops or local Ordinaries by the Apostolic Constitution of the 12th of October, 1869, also includes the Cardinal Vicar of the City for the time being, so that confessors are obliged to obtain permission from him for the validity of absolution, although hitherto the jurisdiction of the aforementioned confessors has not been restricted with regard to cases reserved by law to the Bishops and Ordinaries of the places, the Most Eminent and Reverend Cardinal Constantine Patrizzi, Vicar of the City, through his prudent consideration, in letters of the 15th of the past month of October, having explained certain

Translated by churchlatin.ai, a product of Boyne Archives

things here and there concerning the same...

[*Latin ed. p. 65*]

65. Concerning the decree regarding opinions, along with the reasons upon which they are based, this controversy was presented to the Most Holy Congregation of the Supreme Inquisition, with the following request. Whether, in accordance with the Apostolic Constitution of the Holy See dated October 12, 1869, confessors of the city require a special faculty from the Eminent Vicar of the City in order to absolve from the censures which are reserved in said Constitution to Bishops or local Ordinaries. On Thursday, December 10, 1875, in the General Congregation of the Holy Roman and Universal Inquisition, held before the Eminent and Reverend Cardinals Inquisitors, concerning the aforementioned matter, and after the opinion of the Most Reverend Consultors had been heard; the same Eminent and Reverend Cardinals declared: "To the Reverend Prelate, Advisor, with all due respect, We deem it fitting to declare that the customary practice can be maintained." On the same day and on the same day of the week, the Most Holy Lord Pope, Pius, by Divine Providence, Pope IX, in his customary audience granted to the Reverend Prelate, Advisor, after hearing the report as above, deigned to approve it with the votes of the Most Reverend Cardinals. I. Pelami, Notary of the Holy Roman and Universal Inquisition. L ©S. Acts, vol. IX, page CVII. 5.

[*Latin ed. p. 66*]

FROM THE DECREE OF THE HOLY CONGREGATION FOR THE HOLY RITUAL. Rome, or Sezze, concerning the Beatification and Canonization of the Most Reverend Servant of God, Father Charles of Sezze, Lay Brother of the Order of Friars Minor of the Reform of Saint Francis.

CONCERNING THE DOUBT: Whether, with the approval of virtues and two miracles already established, the process for the Beatification of the Venerable Servant of God can proceed. For the word has perished through foolishness; therefore the enemies of the same, whose end is destruction, strive with all their might, and exert the powers which they possess today for the ruin of mankind, to scatter and utterly destroy those who follow the Cross. And it is written: "I will destroy the wisdom of the wise," for God has made the wisdom of this world foolish. The Church marvels at the fulfillment of this prophetic utterance of Apostolic truth in the Venerable Servant of God, Charles of Sezze. For, drawn by the love of the Cross, he dedicated himself to a community of laymen within the stricter observance of the Assisiensis family, so that he might be accounted as one humbled in the house of God. But through the exercise of heroic virtues and the heavenly graces with which he was illuminated by God, he became so renowned for his sanctity that, even in his lifetime, he was

Translated by churchlatin.ai, a product of Boyne Archives

held in veneration not only by his companions, but also by eminent men.

[*Latin ed. p. 67*]

Decree 67 concerning the virtues of the Venerable Servant of God was enacted in the Congregation of Sacred Rites: and these heroic virtues were solemnly proclaimed by His Holiness Pope Clement XIV, the day after the Ides of June, in the year 1772, as were also the miracles which were accomplished through his intercession. Two of those which were proposed as evidence of his sanctity were approved by the Most Holy Pope Pius IX, by a Pontifical decree, on the eighteenth day before the Kalends of September, in the year 1862. Therefore, in order to grant the Venerable Servant of God the public honors of cult, it remained to be determined, according to the discipline of this sacred tribunal, whether, with the virtues and the approval of two miracles established, it was safe to proceed to the Beatification of the Venerable Servant of God.

In a very frequent meeting held before His Most Holy Father Pope Pius IX, in the buildings at the Vatican, on the Kalends of June of the current year, the Reverend Cardinal John Baptist Pitra, Relator of the Cause, presented a statement raising a doubt, and to this all the Fathers unanimously gave their support. The Most Blessed Father hesitated to pronounce the decree, reminding each one to humbly invoke the wisdom of the eternal See from the Lord, in this matter of such importance.

After several days of prayer to obtain heavenly light, His Most Holy Father, on this day, at the Presentation of the Immaculate Virgin, after the holy Sacrifice of the Mass, in the private Papal chapel, summoned to the more noble hall of the Vatican buildings the Reverend Cardinal Constantinus Patrizi, Bishop of Ostia and Velletri, Dean of the Sacred College, Prefect of the Congregation of Sacred Rites, and the Reverend Cardinal John Baptist Pitra, Relator of the Cause, together with the Reverend Father Lawrence Salvati, Promoter of the Faith, and myself, the undersigned Secretary, and, in their presence, pronounced: "It is safe to proceed to the Beatification of the Venerable Servant of God Charles of Seati."

[*Latin ed. p. 68*]

Apostolic Letters 68. This Decree was ordered to be made public, to be recorded in the acts of the Sacred Rites, and Apostolic Letters were to be issued in the established form, concerning the solemn rite of Beatification, to be celebrated whenever desired in the Patriarchal Basilica of the Vatican. Eleventh day before the Kalends of December, in the year 1875. Cardinal PATRIZI, Bishop of Ostia and Velletri, Sacred Roman College, Prefect. S. R. C. Secretary, S. Piae Ralli, Sacred Roman College. APOSTOLIC LETTERS: Letters Apostolic, by which the Theological Faculty of Poitiers is canonically granted an institution and the power to grant the Laurea. PIUS PP. IX. FOR PERPETUAL REMEMBRANCE. It is known that the Church of

Translated by churchlatin.ai, a product of Boyne Archives

Poitiers, from the very earliest times when the Christian Religion spread throughout Gaul, has flourished in every kind of praise. From this, that light of genius and science, Hilary, emerged, who shone upon the entire world and the Church, with a singular power of speech and eloquence, at the same time refuting the threats and fury of Constantius Augustus, exposing the deceptions of the Arians, and refuting errors. No place, however distant or hidden, existed at that time to which the Roman name had not reached, where the praises of the sanctity of life, the purity of doctrine, and the splendor and brilliance of the eloquence of so great a Confessor of the Faith would not be proclaimed, so that that great man added to the fruits of his own justice those which others had not.

[*Latin ed. p. 69*]

Apostolic Letters 69 abundantly and enduringly benefited from his discipline and writings. Nor was the benefit to the sciences and humanities in the city of Poitiers any less, for that Venantius Fortunatus seemed to have given to Italy, so that, by the sweetness of his poetry, he might gradually imbue the remnants of the pagans with the mysteries of the Christian Religion, and sing the praises and great works of illustrious men, which were then widely flourishing in the Church of Gaul. Therefore, it is not surprising that, following in the footsteps of these Fathers, the youth of Poitiers would have especially devoted themselves to that goal, namely, to excel all others in both sacred and profane studies. And so, as soon as the incursions of the barbarians ceased, and the darkness of ignorance was repelled, great centers of burgeoning sciences and letters, under the auspices of the Church, began to be established. In the city of Poitiers, that which was erected by our predecessor, Pope Eugene IV, at the request of Charles VII, King of Gaul, and which, since its restoration in the year 1431, has stood almost to our own times, for the cultivation and honor of the sciences and letters. The venerable Brother Louis Edward Pie, Bishop of Poitiers, a true heir to such glory, especially devoted to sacred Theology, the parent and summit of all sciences, and the guardian and defender of all truths pertaining to the happiness and eternal life of man, and to his duties towards God, towards himself, and towards human society, has for nearly twenty years diligently labored so that the Theological School of Poitiers might excel in the fame of its doctors, and in the breadth and purity of its disciplines. In carrying out this plan, he has found excellent collaborators and, in every branch of learning, has inspired the greatest hope.

[*Latin ed. p. 70*]

Apostolic Letters have informed us, and our own long experience confirms, that those individuals who, in recent years, have been most successful and highly esteemed in teaching theological, canonical, and philosophical disciplines in our esteemed city. Recently, that venerable Brother

Translated by churchlatin.ai, a product of Boyne Archives

explained to us that he intends to enhance the prestige of these theological schools by adding new chairs and disciplines, entrusting the care of these matters to the aforementioned associates, and, with the aim of emulating the theological faculties of this esteemed city, which, under the auspices and patronage of the Roman Pontiff, have always held a leading position among others, he seeks to ensure that the structure of the theological schools of Poitiers reflects and embodies that model. Furthermore, he earnestly requested that, just as this Holy See grants the right to award the degrees of Bachelor and Licentiate to those candidates for these degrees who, having undergone the solemn examination of their knowledge, have been deemed worthy of such honors through their moral integrity, diligence in their studies, and excellence in their knowledge, so too, with Apostolic permission, it may be permissible to grant the doctoral degree in these schools. Therefore, we, who know that nothing contrary to sound doctrine is taught in these schools, and who, through experience, know how much fruit these schools have yielded, not only in the city of Poitiers itself and in the neighboring dioceses under the jurisdiction of the Metropolitan of Bordeaux, but also in distant regions, and who are certain that the aforementioned venerable Brother and his associates have diligently ensured that these schools increasingly dedicate themselves to the propagation and vigorous defense of true religion, we have wished to comply with such requests, as far as in us lies, and thus, in honor of the holy Doctor Hilarion.

[*Latin ed. p. 71*]

By Apostolic Letters, and to the other celestial Patrons of the Church of Pictaviensis, due honor is to be rendered; and likewise, the Antistite Ludovicus Eduardus is embraced by Our own and most special paternal benevolence. Since these things are so, We declare that all those to whom Our letters are favorable, from whom no censure, excommunication, or interdict, and no other ecclesiastical sentences or penalties, of any kind or for any reason, have been, or shall be imposed, are, for the sake of this matter alone, to be absolved and considered absolved; and We erect the Theological Schools of Pictaviensis, of which mention has been made above, into a proper and truly called Theological Faculty, by Our Apostolic authority, by the tenor of these presents, and We grant to them that, besides the power of conferring lesser academic degrees, they may lawfully confer, according to the method observed in this Alma Urbe, the doctoral degree upon those who have duly completed the course of sacred theology there, and that, after having demonstrated the peril of doctrine, before at least four examiners, besides the President of studies, the Prefect of the same, or his substitute, and Theological professors, they have been judged worthy of such honor by a prudent plurality of votes. But We decree that those who have been declared doctors and have received the degree, after having

Translated by churchlatin.ai, a product of Boyne Archives

made the profession of the Catholic Faith according to the form prescribed by Our Predecessor, Pius IV, of blessed memory, and that mention of the concepts of this profession of faith shall be made in the diplomas or charters issued for the purpose of confirming the matter. Furthermore, by the same authority, by these presents, We grant that those who have been adorned with the degree, as We have described, may lawfully use and enjoy all honors, privileges, and prerogatives, and that they do use and enjoy them, just as those who are adorned with the same honor in this Our Alma Urbe. Finally, We decree that these Our letters shall be firm, valid, and efficacious, and shall have full and complete effect.

[*Latin ed. p. 72*]

The effects of the Apostolic Letters shall be to be received and obtained, and they shall fully apply to those to whom they pertain, and shall apply to the present and future times; and thus, in all matters, by whatever judges, ordinary or delegated, even Auditors of the Apostolic Palace, Nuncios of the Apostolic See, and Cardinals of the Holy Roman Church, even Legates from the Side, they must be judged and defined, having been deprived of any other power or authority to judge or interpret, and shall be declared void and null, if, concerning these matters, anything should happen to be attempted in any way contrary to them, knowingly or unknowingly. Notwithstanding any Apostolic Constitutions and ordinances, and any others, even those specially mentioned and deserving of individual consideration and derogation, which may be to the contrary. Given at Rome, at Saint Peter's, under the seal [of the Pope], on the eighth day of October, 1875, in the thirtieth year of Our Pontificate. L, © S. F. Card. ASQUINIUS, Apostolic Letters sent to the Most Eminent Man, Dom. Cardinal Régnier, Archbishop of Cameracensis, on the occasion of the foundation of the Catholic University of Insulensis (Lille). PIUS PP. IX. BELOVED SON, GREETINGS AND APOSTOLIC BENEDICTION. Those things which you, our beloved son, together with the venerable brother, John Baptist Joseph, Bishop of Atrebatensi, communicate to us, concerning the zeal with which you have striven to promote the institution of certain faculties for the proper education of youth, and thus to initiate the undertaking of the proposed university, are most acceptable to Us. For We see how many minds are corrupted by the snares of laws, and how many souls are infected with materialism.

[*Latin ed. p. 73*]

From the Consistorial Acts, 73, through empty commentaries, grave deficiencies have been brought to light concerning the physical sciences. Therefore, we consider it most useful to counteract these evils through sound and solid doctrine, which, subject to the inspection and governance of the sacred pastors, in no way deviates from truth; and thus, we eagerly implore all blessings for such endeavors and for all those who support them, and

Translated by churchlatin.ai, a product of Boyne Archives

we offer our most excellent counsel. We desire that the favor of the Most High be evident through the Apostolic Blessing, which we impart as a witness of our greatest benevolence to you, our beloved Son, venerable Brother Bishop of Arras (-Boulogne-Saint-Omer), to those who in every way assist in your undertaking, and to your clergy, people, and to Arras in its entirety. Given in Rome, at St. Peter's, on the fourth day of November, in the year 1875, in the thirty-third year of Our Pontificate. PIUS PP. IX. FROM THE CONSISTORIAL ACTS, DAY 28 OF JANUARY, 1876. After the Most Holy Pope Pius IX had, as usual, concluded the morning session in the Vatican Apostolic Palace, the Most Reverend Cardinal Roger Aloysius Aemidius Alitici Mattei, created on March 15th, and publicly announced on September 17th, 1875, was presented with the following churches: THE ARCHIEPISCOPAL CHURCH OF SIDEN, vacant in the territories of the infidels, through the assignment of the presbyteral title of St. Cecilia, to the Most Reverend and Most Reverend Lord Innocent, Cardinal of the Holy Roman Church, Ferrieri; and to the same church, the Most Holy transferred the Reverend Father Julius Lenti, whose qualities have been approved by the Apostolic See, who had been prefect of the perpetually united churches of Nepesina and Sutrina since February 1867.

[*Latin ed. p. 74*]

74. From the Consistorial Acts: Sidaampla, formerly a great metropolis and port city of Pamphilia, located near the borders of Cilicia, between the mouths of the Eurymedon River to the west and the city of Coracensium to the east, is still lamentably held under the power of infidels. Concerning this, the Metropolitan Church of Manila, in the Philippine Islands, is vacant, having been vacated by the Reverend Father Gregory Melithon Martínez, who willingly and freely relinquished it at his own request, and it was accepted by the Most Holy [Pope]. The Most Holy [Pope] has promoted the Reverend Father Peter Payo, born of legitimate, Catholic, and honorable parents in the city of La Coruna, in the archdiocese of Santiago de Compostela, and having surpassed his sixty-first year, to the aforementioned Metropolitan Church, for presentation to the Most Serene King of the Catholics. Having recently received Holy Orders as a priest, and having solemnly professed his vows in the Order of Preachers of Saint Dominic, he has commendably exercised himself in ecclesiastical functions. He was also appointed Provincial for the missions of Asia, and he even relinquished his position as parish priest of certain churches in the diocese of Cebu, or of the Name of Jesus. The city of Manila and its port, in Asia, in the Indian Ocean, and the capital of the Philippine Islands, is located in the province of the same name, and is prominently situated in the middle of the island called Luzon; there, approximately six thousand inhabitants live under the temporary dominion of the aforementioned Most Serene King of the Catholics. The Metropolitan Church, dedicated to the Immaculate

Translated by churchlatin.ai, a product of Boyne Archives

Conception of the Blessed Virgin Mary, is a fine building, but requires several repairs, and four bishops are subject to it. Its chapter consists of five dignitaries, after the pontifical office, first the Dean, two Canons, and four others, including a theologian and a penitentiary, and the same number of vicars, several chaplains, and other priests and clerics dedicated to the work of the divine ministry. The Metropolitan Church itself is served by a parish priest, and there is a baptismal font, and a sacristy sufficiently equipped with all the sacred vessels, either for the celebration of the divine cult or for the performance of pontifical functions; moreover, there are some relics of the saints, decently preserved, a choir, an organ, a bell tower with bells, and outside the city, a cemetery. The Archiepiscopal Palace, spacious and suitable for the Metropolitan, is nearby and requires no repairs. No other parish church is found besides the Metropolitan Church in Manila, but there are six in the suburbs, all equipped with a baptismal font, and four others.

[*Latin ed. p. 75*]

From the Consistorial Acts, there are 75 parishes for men, and one for women in a monastery, in addition to two hospitals, seven lay sodalities, a pawnbroker's office, and a seminary. The archdiocese encompasses ten civil provinces, which contain one hundred sixty-eight locations, each with its own parish. The cathedral churches of Sutri and Nepi are perpetually and canonically united, through the transfer of the Reverend Father Julius Lenti to the Archiepiscopal Church of Siena, in lands outside the faith. The Most Holy [Father] promoted the Reverend John Baptist Paolucci from the ranks of the clergy, born of legitimate, Catholic, and honorable parents in the place commonly called Saltara, in the diocese of Janua, and who, in the forty-third year of his age, was instituted. Among the students of the seminary, which, through the most munificent generosity of His Holiness, was established in Rome and is called "Pius," he was once enrolled, and there he received the order of the priesthood, and then the degrees of Doctor in sacred theology, and in both Canon and Civil Law. Sutri and Nepi, or Nepeta, are located in the province of the Patrimony of Saint Peter. The former is built on a hill, and within its circumference of approximately one Roman mile, it numbers three hundred houses and contains nearly two thousand five hundred inhabitants; the latter, being situated on level ground, within its circumference of one Roman mile, contains over two hundred fifty houses and nearly two thousand inhabitants. The cathedral church of Sutri is dedicated to the Assumption of the Blessed Virgin Mary, and boasts the title of Saint Dulcissima, the Virgin and patroness of the city; it is a fine building and requires no repairs. The church of Nepi, dedicated to the Holy Apostles Romanus and Ptolemy, the ancient bishops and patrons of that city, is also dedicated to the Assumption of the Blessed Virgin Mary, and is a well-built and modern structure, requiring no repairs;

Translated by churchlatin.ai, a product of Boyne Archives

both are immediately subject to the Holy Apostolic See. The Chapter of the former church has one Archpriest, fourteen Canons, with a theologian and a penitentiary, and two Beneficiaries; the Chapter of Nepi also has one Archpriest, seventeen Canons, with two prebends, and two Beneficiaries; in both, there are also several other priests and clerics who minister in the divine services. The ordinary care of souls belongs to each Chapter; however, it is exercised through the proper parish priest, canonically appointed, and through a curate chosen and approved by the Bishop, in the respective cathedrals, where, in addition to the baptismal font, and a sacristy well-equipped with sacred vessels, or for performing divine services, or for carrying out pontifical functions, there are also several altars.

[*Latin ed. p. 76*]

76 From the Consistory Acts, the bodies and relics are preserved with great veneration, and also the choir, the organ, the bell tower with its bells, and the cemetery outside the city walls. The respective Episcopal residences, adjacent to the Cathedral, are in excellent condition and require no repairs. Besides the Cathedral, in the city of Sutri, there are only two parishes, one for men and one for women; in the city of Nepeta, there are four parish churches without a baptismal font, two monasteries for men and one for women; in both places, there are also a hospice, several lay sodalities, a charitable foundation, and a seminary. The united dioceses extend to approximately seventy miles, and contain many other locations.

The CATHEDRAL CHURCH of Placentia is vacant, due to the death of the Most Reverend Anthony Ranza, the last bishop, who died outside the Roman Curia. The Most Holy Father has appointed the Reverend Father John Baptist Scalabrini, a priest of legitimate Catholic parents, born in the place commonly called Fino in the diocese of Como, and who has reached his fortieth year, to the aforementioned Church of Placentia. Recently ordained to the sacred priesthood, he has diligently applied himself to ecclesiastical duties. He has served as a teacher of Italian, Latin, and Greek languages in the diocesan seminary at Saint Abundius. He has also served as Rector and has been appointed as an Examiner for the diocesan synod. He is currently the Parish Priest and Prior of Saint Bartholomew in the suburbs of Novocomum.

The city of Placentia, well-known in Italy and located in Emilia, on the left bank of the Po, is built in a fertile and level area, is enclosed by walls and a fortress, and extends for nearly five miles, containing approximately six thousand families and about thirty thousand inhabitants. The Cathedral Church, a very ancient and magnificent building, is dedicated to the Blessed Virgin Mary, assumed into Heaven, and requires no repairs; the Episcopal Chair is immediately subject to the Holy Apostolic See. The Chapter of the Cathedral consists of six dignitaries, after the pontifical official, the first being the Praepositus, then twenty-seven Canons with

Translated by churchlatin.ai, a product of Boyne Archives

their respective stipends, four Mansionaries, thirty Beneficiaries, and two masters of ceremonies, as well as other priests and clerics serving in the divine ministry. The habitual care of souls is entrusted to the College of Canons, and the actual care is with the Canon Praepositus and the Archpriest, but...

[*Latin ed. p. 77*]

From the Consistorial Acts 77, two priests are appointed, one by the Provost, the other by the Archpriest, approved by the Bishop, and removable at his discretion. In the same Cathedral Church, which is equipped with a baptismal font, several reliquaries containing the sacred remains of the saints are religiously preserved, especially the body of Saint Justina, Virgin and Martyr, patroness of the city. There are also two sacristies abundantly furnished with all the sacred vestments necessary for performing divine services and exercising pontifical functions; furthermore, there is a choir, three organs, a tower with bells, and a cemetery located outside the city walls. In addition to the Cathedral, there are more than thirty parish churches within the city, all equipped with baptismal fonts, of which six are collegiate churches. There is also a college for young girls run by the Ursuline nuns, a monastery for men, two monasteries for women, a home for orphans, and three institutions for girls, as well as several lay sodalities, two hospitals, a pawnshop, a seminary, and also the distinguished Alberonian College, founded by Saint Vincent de Paul, which provides instruction in philosophy and theology to sixty clerics free of charge for nine years, and another seminary within the diocese. The Piacentine diocese extends very widely and encompasses many places. The CATHEDRAL CHURCH of Novara was vacant, having become so through the death of the Most Reverend James Philip Gentile, the last Bishop, who died outside the Roman curia. The Most Holy See appointed the Reverend Stanislaus Eulam, a priest from Monregale, Archpriest of that Cathedral, Moderator of Moral Cases and of the Sacred Liturgy, and Doctor of Sacred Theology. Novara, a city in Insubria, located in the Piedmontese countryside between Milan and Vercelli, on a hill, within a circumference of approximately two Roman miles, has about twenty thousand inhabitants. The Cathedral Church proudly bears the title of the Virgin Mary, assumed into Heaven, and is a fine building, requiring no repairs of great importance and is a suffragan of the Archbishop of Vercelli. Its chapter includes two dignitaries, after the pontifical principal, an Archdeacon, fifteen canons, including a theologian and a penitentiary, nine beneficiaries, four chaplains, and other priests and clerics who serve in the divine ministry. Through the dignity of Archpriest, to whom two priests provide assistance, the care of souls is exercised in the

Translated by churchlatin.ai, a product of Boyne Archives

Cathedral itself, where...

[*Latin ed. p. 78*]

78 From the Consistorial Acts, there is a source for baptism, and a sacristy sufficiently equipped with all sacred furnishings, either for performing divine offices or for carrying out pontifical functions. Furthermore, there are present notable relics of the Saints, especially those of the Blessed Lawrence, Priest and Martyr, of Bernard, and of Agabius, Bishop of the same city, all properly preserved. There is also a choir, an organ, a bell tower with bells, and outside the city, a cemetery. The Episcopal palace, sufficiently comfortable and fitting, is attached to the Cathedral and requires no repairs. Five other parish churches are listed in Novara, one of which, under the title of Saint Gaudentius, is also a collegiate church, and four are located in the suburbs; there are also a monastery for men and two for women, and several lay sodalities. THE CATHEDRAL CHURCH OF [Saint] CONSTANTINE, in the province of Rothomagum, is vacant, having been left free and voluntarily by the Reverend Father John Peter Bravard through a resignation accepted by His Holiness. His Holiness, upon the nomination of the most illustrious Maurice de Mac-Mahon, Duke of Magenta, President of the French Republic, promoted the Reverend Abel Anastasius Germain, a priest of the Diocese of Bayeux, to be Archpriest and Parish Priest of that Diocese. THE CATHEDRAL CHURCH OF [Saint] PETER, or [Saint] MARTIN, is vacant, due to the translation of the Reverend Father Amand Joseph Fava to the See of Gratianopolis. His Holiness, upon the nomination of the most illustrious Maurice de Mac-Mahon, Duke of Magenta, President of the French Republic, promoted the Reverend Julian Francis Peter Carmené, born of legitimate, Catholic, and honorable parents in the parish of Trébry in the Diocese of Saint-Brieuc, and who has reached the age of forty-seven years. Incorporated into the Diocese of Saint Dionysius, and having recently received Holy Orders, he has diligently devoted himself to ecclesiastical duties. He has been appointed as Superior of a seminary-college and as Parish Priest in a vast parish, and has also served as Administrator of that See, and as the General Vicar in spiritual matters, until recently. The Cathedral Church, of a sufficiently large and elegant structure, bears the title of the Blessed Virgin Mary, assumed into Heaven, requires no repairs, and is suffragan to the Archbishop of Bordeaux. Its Chapter, not yet established, numbers approximately fifteen honorary Canons; the care of souls in the Cathedral is exercised by the Parish Priest, Dean, assisted by two Vicars.

[*Latin ed. p. 79*]

From the Consistorial Acts, 79, provided that there is a baptismal font and a sacristy, equipped with all the sacred furnishings necessary for performing divine services and for carrying out pontifical functions, and that,

Translated by churchlatin.ai, a product of Boyne Archives

moreover, there are properly preserved relics of the Saints, a choir, an organ, a bell tower with bells, and a cemetery. Two other parishes in the city of S. Petri are equipped with baptismal fonts, two are religious houses for men and three for women, two lay sodalities, a double hospital, and a seminary-college. The diocese encompasses the entire island of Martinique, extending for nearly fifty leagues in circumference and containing approximately thirty-five parishes. The CATHEDRAL CHURCH OF PASSAVIA, vacant, having been held by the Most Reverend Henry Hofstätter, the last bishop, who died outside the Roman curia; the Most Holy [Father] promoted to the aforementioned church, by virtue of an Apostolic indult, the Reverend Joseph Franciscus Weckert, born of legitimate, Catholic, and honorable parents in the place commonly called Wallerstein, in the diocese of Augustana, and having surpassed his fiftieth year. Having recently been initiated into the Sacred Priesthood, he has commendably exercised himself in performing ecclesiastical functions, especially in the preaching of the Word of God. Having been appointed as an auxiliary pastor of Kleinerdlingen, and as chaplain and vicar of the parish of S. Udalric and Afra in the city of Augustana, he served in that Episcopal court, performing duties in the secretarial office and in the council, even in matrimonial cases. He himself is the Cathedral Choir Master and Subcustodian, and is currently designated as a Canon. The city of Passavia, located in the eastern part of Bavaria, on the borders of the Austrian Empire, built on the banks of the Danube and the Inn, is quite large and is inhabited by nearly sixteen thousand Catholic inhabitants, under the temporal dominion of the aforementioned Most Serene King. The Cathedral Church, of a beautiful Italian structure, boasts the title of S. Stephani, requires no repairs, and provides assistance to the Archbishop of Monacensi and Frisingen. Its chapter comprises two dignities, after the pontifical prince, a Praepositus, eight Canons with a theologian and a penitentiary, and six Vicars. Through one of the Canons, the care of souls is exercised within the Cathedral, where there is, indeed, a baptismal font and a sacristy equipped with all the sacred furnishings necessary for performing divine services and for carrying out pontifical functions.

[*Latin ed. p. 80*]

80. Having been sufficiently instructed concerning the matters to be discussed in the Consistory, it is reported that the relics of the Saints, especially those of SS. Valentine and Maximillian, are properly preserved; there is also a choir, an organ, a bell tower with bells, and a cemetery. Three other parishes are mentioned in Passau, each equipped with a baptismal font, a pious house for English virgins, founded for the education of girls, several lay sodalities, a hospital, a charitable institution, and a seminary. The extent of the diocese is quite large, encompassing one hundred and fifty parishes and other locations. The CATHEDRAL CHURCH, dedicated to the Name

Translated by churchlatin.ai, a product of Boyne Archives

of Jesus, is vacant in the Philippine Islands, due to the death of the Most Reverend Eomualdo Ximeno, the last Bishop, who died outside the Roman Curia. The Most Holy [Father] promoted, for the presentation to the Most Serene King of the Catholics, the Reverend Father Francis Romero, born of legitimate, Catholic, and honorable parents in the place commonly called Madridejos, in the archdiocese of Toledo, and having surpassed his sixty-third year. Having recently received Holy Orders, and having solemnly professed his vows in the Order of the Friars Minor of the Observance of the Discalced, for the missions of Asia, he has commendably exercised himself in ecclesiastical functions, especially in receiving the confessions of the faithful. For many years, he served as a Parish Priest in the archdiocese of Manila, and also as a Vicarious Forane, Secretary of the Province, Definitor, and twice as Provincial in his Order. The city of the Name of Jesus is located in Asia, in the Philippines, and the town of Cebu is situated in the southern part of the same island, and together they contain over a thousand inhabitants under the temporary dominion of the aforementioned Most Serene King of the Catholics. The Cathedral Church, dedicated to the SS. Angels, is a fine building, requiring no repairs, and it serves the Metropolitan of Manila. In this Church, there are dignitaries, canons, and benefices, as well as a Fiscal Provisor and several chaplains devoted to the divine offices. The care of souls is exercised by the parish priest in the same Cathedral, where, in addition to the baptismal font and the sacristy, which is sufficiently equipped with sacred vessels and other necessities for the performance of divine services and pontifical functions, there is a choir, an organ, a bell tower with bells, and a cemetery. Besides the Cathedral, there is no other parish church in that city, nor a charitable institution, but there are two monasteries for men, as well as lay sodalities, a hospital, and a seminary. The diocese is extensive and encompasses many locations.

[*Latin ed. p. 81*]

From the Acts of the 81st Consistory, the EPISCOPAL CHURCH OF TLOAN, vacant under the Patriarch of Jerusalem, in lands among the infidels, due to the death of the Most Reverend Lewis Bartholomew Brynck, the last Bishop outside the Roman Curia; the Most Holy Father promoted the Reverend Father Franciscus, of the Order of Friars Minor, born of legitimate, Catholic, and noble parents in the city of Balneocaballo, in the diocese of Faventina, and appointed to Quarten, having reached the age of fifty. Among the students of the Pontifical Ecclesiastical Academy, he was co-opted, and having already received the order of the priesthood, he was awarded a doctorate in sacred theology, as well as in both branches of canon law, by the Roman University. He had previously held the benefice of the Patriarchal Basilica of Vatican, and was also a Canonical member, and among the Most Holy Father's intimate supernumerary chamberlains, and subsequently a Domestic Prelate, and among the Referendaries of both

Translated by churchlatin.ai, a product of Boyne Archives

Signatures, the Abbreviators of the greater court, and an Apostolic Protonotary, as if participating in the deliberations. He has performed duties in the Consultative Tribunal of the Pontiff, and as a Voting member of the Signature of Justice. The city of Tlos, in Lycia, is still miserably oppressed under the yoke of the infidels; therefore, its condition cannot be adequately reported.

The EPISCOPAL CHURCH OF TLOAN, vacant under the Archbishop of Myra, in lands among the infidels, due to the translation of the Reverend Father Martin G-river to the Cathedral seat of Perta; the Most Holy Father promoted the Reverend Father Anthony Centore to the same Church, and appointed him as an Auxiliary Bishop, born of legitimate, Catholic, and honorable parents in the town of Casanova, in the archdiocese of Capuana, and having reached the age of sixty. He had previously received the sacred order of the priesthood, and diligently performed ecclesiastical functions, especially in preaching the Word of God and explaining the sacred Scriptures, and in receiving the sacramental confessions of the faithful and nuns. He has performed duties as a member of the Congregation of the Superior Mission, as Rector of the archdiocesan seminary, and as a lecturer in physics, higher mathematics, dogmatic and moral theology, as well as in sacred Scripture and canon law; he was also included among the prosynodal examiners. He was a Canon and Theological Substitute of the same metropolitanate, but has now resigned. The city of Tlos, in Lycia, on the Mediterranean coast, near the Tloum River, between Xanten to the south and Arax to the north, is still miserably oppressed under the power of the infidels; therefore, its condition cannot be reported.

The EPISCOPAL CHURCH OF AREOPOLITAN, vacant under the Archbishop of Perta, in lands among the infidels, due to the death of the Most Reverend Anthony Frenaci, volume IX, page CVII, 6.

[*Latin ed. p. 82*]

82 From the Acts of the Consistory concerning the zealous late Bishop, who died outside the Roman Curia; the Most Holy Father promoted him to the same Areopolis Church and appointed as Auxiliary, the Reverend Cyriacum Sancha Hervàs, born of legitimate, Catholic, and honorable parents in the place commonly called Quintana del Piño, in the diocese of Oxomensis, and having surpassed the forty-second year of his age. Ordained to the priesthood and having received the license in sacred theology, he commendably exercised himself in performing ecclesiastical functions and in preaching the word of God. He obtained the chair of philosophy in the seminary of Oxomensis, and was chosen as Professor of Moral Theology at the College of St. James of Cuba, and was constituted a synodal examiner for both dioceses. He had previously resigned from the position of Canon Penitentiary of the Archiepiscopal See of St. James of Cuba, both by the Secretariate and by the Metropolitan himself. The city of Areopolis

Translated by churchlatin.ai, a product of Boyne Archives

in Arabia Petraea, in Palestine, still lies miserably under the yoke of the infidels; therefore, the deplorable state of the EPISCOPAL CHURCH OF ZELAN, under the Archbishop of Amasen, in the territories of the infidels, is vacant, following the death of the Most Reverend Peter Paul Lefevre, the late Bishop who died outside the Roman Curia; the Most Holy Father promoted him to the same Church and appointed as Auxiliary, the Reverend Emmanuel Maria Gonzalez Sánchez, born of legitimate, Catholic, and honorable parents in Hispali, and having surpassed the fiftieth year of his age. Ordained to the priesthood and having received the doctoral degree in sacred theology, he has diligently labored in ecclesiastical functions. Having performed the duties of Professor and Rector in the seminary of Hispali, and having been added as a pro-synodal examiner among the archdiocese of Hispali and other dioceses, he has hitherto resigned from the position of Canon Penitentiary with the Metropolitan of Hispali. The city of Zela in Cappadocia, in Pontus Polemoniacus, near Neocaesarea, still lies miserably under the yoke of the infidels; therefore, it is impossible to recount the deplorable state of the EPISCOPAL CHURCH OF OLBANEN, vacant under the Archbishop of Seleucia, through the succession of the Reverend Father Patricius Moran to the Cathedral See of Ossory; the Most Holy Father promoted him to the same Church, the Reverend Stephen Junak, born of legitimate, Catholic, and honorable parents in the city of Gyongyos, in the archdiocese of Agriensis, and having reached the sixty-seventh year of his age. Ordained to the sacred priesthood, he has diligently devoted himself to performing ecclesiastical functions, and in the dioceses of Agriensis, Csanadiensis, and Magno Varadinensis, in many exercises. Prefect of Studies at the seminary of Agriensis,

[*Latin ed. p. 83*]

From the Consistorial Acts, eighty-three benefices were conferred: a preacher and parish priest for Kis-Tabyn, in the diocese of Makò, in the province of Csanad, who had previously served as a cooperator, archivist, Episcopal Ceremonial Master, and Consistorial Notary. For the diocese of Magno-Varadin, the Director of the Latin Chancery, Assessor to the Holy See, Canon, whether actual or honorary, Custodian, Singer, and, successively until the present time, the Major Prefect was appointed, and he was also added among the Domestic Prelates of His Holiness, and among the Synodal Examiners. The Prefect of the Blessed Virgin Mary of the Castle, and also the Vicar Spiritual and General Auditor of Causes for the diocese of Magno-Varadin, resigned. The city of Oiba, in Cilicia, bordering the province of Solensi, still lies under the power of infidels; therefore, its most miserable state passes without notice. By Papal Brief, the following benefices were conferred upon the Churches: The Episcopal Church of Lorien, in infidel lands, to the Reverend Father Venceslaus Soie, who is already a Bishop of Senjen and Modrussen. The Church

Translated by churchlatin.ai, a product of Boyne Archives

of Holleghen, recently erected into a cathedral in the United States of America, to the Reverend Father Michael Domenec, transferred from the Diocese of Pittsburgh. The Cathedral Church of Pittsburgh, to the Reverend Father John Iwig, Rector of the Church of Saint John in the Diocese of Pittsburgh, and External Vicar. The Cathedral Church of Saint Hyacinth, to the Reverend Father Ludovic Zefirin Morau. The Episcopal Church of Paneaden, in infidel lands, to the Reverend Father Alessio Filippi and the Minor Observants, appointed as Apostolic Vicar of Hu-pè Occidental-meridional. The Episcopal Church of Azoten, in infidel lands, to the Reverend Father Francis Bernert, appointed as Apostolic Vicar of Saxonia. The Episcopal Church of Tiberiopolitan, in infidel lands, to the Reverend Father Eusebius Semprini and the Minor Reformed, appointed as Coadjutor to the Reverend Father Michael Navarro, Vicar Apostolic of Honanen. The Episcopal Church of Orfhosien, in infidel lands, to the Reverend Father Gregory Grassi and the Minor Observants, appointed as Coadjutor to the Reverend Father Aloysius Moccagatta, Vicar Apostolic of Xan-si. Then, according to custom, His Holiness spoke to the Most Reverend Cardinal Antici Mattei. When the Most Reverend Cardinal Pitra had completed his annual duties as Chamberlain, he presented a report to the Most Holy Father, who...

[*Latin ed. p. 84*]

From the Sacred Congregation of the Council, it is known that he was born in the year 84 and that he delivered it to the Most Eminent Cardinal Bonaparte, who assumed the aforementioned office for the current year. Then, a request was made to the Most Holy Father regarding the Sacred Pallium for the Church of Aquila, recently erected as an Archdiocese, and for the Church of Manila. Finally, the Most Holy Father placed the Cardinal's ring on the hand of the Most Eminent Cardinal Antici Mattei, assigning to him the presbyteral title of Saint Lawrence in Panisperna.

FROM THE SACRED CONGREGATION FOR THE DISPENSATION OF THE COUNCIL.

On May 22, 1875. The Most Reverend Bishop A. reported to the Most Holy Prince, whom may God long preserve, that the parish priest of the place, O., in the age of thirty-seven years, had for some months been afflicted with a stiffening of the right arm, "so that he was unable to use it in the celebration of Mass to make the sign, nor was he able to distribute Holy Communion to the faithful, nor to perform the other ceremonies properly, without at least some visible deformity." Therefore, he humbly supplicated the Most Holy Prince, that he might deign to consider "the scarcity of priests with which the Diocese is afflicted, and the qualities with which the aforementioned priest is endowed," and to grant him permission to

Translated by churchlatin.ai, a product of Boyne Archives

continue celebrating and to perform the aforementioned ceremonies, using his left hand.

Having received these prayers, and after a test, performed without any deformity, before the master of ceremonies, as the Sacred Congregation had ordered, on January 27 of the following year, the following decree was issued: "For the granting of a dispensation from the irregularity due to the aforementioned defect, and for the authorization..."

[*Latin ed. p. 85*]

Dispensation 85 pertains to celebrating the Holy Sacrifice of the Mass in a private oratory, or even in a public church, at a time less frequented by the people, for a period of six months, at the discretion and with the knowledge of the Bishop. The aforementioned priest, having received such a dispensation, presented to the Sacred Congregation in March of that year, an account of the inflexibility of his elbow in his right arm, resulting from a fracture of the same bone. Therefore, since the impediment is permanent, he earnestly implored that the dispensation also be permanent. He also stated that he fulfills the parochial office, and possesses the necessary qualities, and therefore does not have, nor can he have, means by which he can obtain a coadjutor. Thus, with earnest prayers, he requested that he might dedicate himself to his ministry without any restriction, as his office requires for the parish. The truth of these requests was confirmed by the Bishop himself. Hence, the decree of April 5th – Through Summary Petitions. OBSERVATIONS FROM THE OFFICE. The Sacred Congregation, with just cause, granted a permanent dispensation from the irregularity caused by the contracted stiffness, without adding any restriction, especially since it concerns a cleric already promoted and not to be promoted, as was defined in the aforementioned article in one of the petitions presented on July 13, 1725, where, although it concerned a priest who, having lost all flexibility in his right arm, was unable to receive the Sacred Host and the Precious Blood with that hand, a dispensation was granted without restriction, upon earnest prayers, at the discretion of the Archbishop. In this case, the good character of the petitioner, his poverty, and the scarcity of priests in the diocese, seem to suggest the advisability of granting such a dispensation, since his service to the Church as a curate is considered very useful. Furthermore, there is the testimony of the master of ceremonies, from which...

[*Latin ed. p. 86*]

86. From the Sacred Congregation, it is understood that a defect does not prevent one from properly and without causing scandal or wonder among the people, performing the ceremonies of the Mass. Nor should the recommendations of the Bishop be overlooked. Having briefly noted these things, it became the task of the Most Eminent and Reverend Fathers

Translated by churchlatin.ai, a product of Boyne Archives

to determine whether such prayers should be received with benevolence. RESOLUTION. The Sacred Congregation, on May 22, 1875, having considered the matter, decided: At the discretion of the Bishop. CONCORDIAE. August 14, 1875. Summary of the case. Anthony, a priest and parish priest of the Diocese of M., by a will made before the highest courts, which was executed on October 7, 1866, appointed his brother, Joseph, as his universal heir, in all his goods, both movable and immovable. He imposed the following obligations upon him, writing: that he should establish certain annual revenues from the sum of 12,750 livres, which he possessed in gold and silver, either by means of land or in the Great Book (of debts) of Italiae; from which revenues, Masses should be celebrated each year for the soul of the testator in his parish church; and these revenues should also be given to the administration of the parish priest for the time being; who should also ensure that the anniversary of the testator's death was celebrated each year. Furthermore, the testator ordered that daily Masses be recited; and he left many sacred utensils to the same parish priest, with the condition that all of them should be preserved perpetually by the general heir and his successors. The testator, having completed his will on October 29, 1866, passed away while still living, and the heir, on February 3, 1867, summoned the parish priest of M. before the secular court, arguing that the will had no validity and no force.

[*Latin ed. p. 87*]

At Concordiae, 87, a legacy was left by the testator. The parish priest, with a dejected spirit, sought to preserve his rights, which were obscured and hidden; therefore, the dispute was prolonged, and expenses multiplied, unless the counsel of friends and jurists had brought about a meeting between the heir and the parish priest, so that they might amicably settle their differences. Therefore, on July 16, 1874, an agreement was reached in the following form: The parish priest, believing that he would incur great expenses and difficulties in pursuing the matter in court, sent a message, declaring, after the initiation of the lawsuit, that he had no claims regarding the aforementioned testamentary dispositions. The general heir, accepting the renunciation and declaration, stated that, out of gratitude and for the sake of the memory of his brother, he wished to donate all of his sacred utensils, which were then deposited with the parish priest, to his parish, and, for the benefit of all parish priests for the time being, to establish a sum of 525 livres from the *Magnum Liberum* (ledger) of Italy, for the benefit of the parish church; with the condition that 153 livres be added for divine psalms, and the remaining sum be spent in the celebration of Masses for the soul of the deceased testator. Meanwhile, the parish priest, mindful of the passage of time, sent a letter to the Holy See, urgently requesting that the initiated transaction be considered valid. The arguments presented were deemed of great importance by the Ordinary. A synopsis of the discussion

Translated by churchlatin.ai, a product of Boyne Archives

follows.

ON WHAT REMAINS OPPOSED TO THE AGREEMENT.

It was observed, according to the office, that it is not permissible to make a transaction to which it is not lawful to alienate. For it has been shown to all that the parish priest, M., had been forbidden from alienating things dedicated to divine worship. Therefore, it was not permissible for him to make a transaction regarding these things. And rightly so, since a transaction is equivalent to alienation.

Regarding what you inquired about, whether a transaction can be made concerning an ecclesiastical benefice brought into a lawsuit, I say:

[*Latin ed. p. 88*]

88 From the response of the Sacred Congregation, it is clear that a transaction concerning sacred and contentious matters cannot be validly concluded. For, we believe that matters pertaining to the sacred, when given, retained, or promised, possess the appearance of simony. Therefore, it was necessary for the evident utility of the pious cause to be demonstrated in order to validate the transaction initiated by the parish priest, Mr. [Name]. Urceolus, *De Transactionibus*, question 23, number 2 and following; Sacred Congregation, *Congregationis in Cavenis*, May 2, 1818. It is easily demonstrated that the necessity and the utility of the pious cause were lacking. Indeed, in law, it is established that, after due process, the heirs of the deceased must fulfill all the legacies left by him, as if by a contract, according to L. 4, § Haeres ff. *De Obitu et Actis*, Institute, § 3 *De Obitu*, which is considered a quasi-contract. And this must be observed with greater piety and religiousness, especially when the matter concerns pious legacies. Indeed, once a transaction has been initiated, it is declared to be binding with respect to such obligations. It is irrelevant to argue that the heir is exempt from this law, since a portion of the assets was alienated by the testator for the purpose of establishing a daily chapel. The difficulty presented appears to be minimal, arising from the fact that the legacy is not explicit but demonstrative. To distinguish the nature of the legacy, it has been decided to draw a distinction based on the order of the wording, so that if the disposition begins with the imposition of an obligation, and then proceeds to the description of the property, it is considered a demonstrative legacy, according to leg. ff. *De Legatis*, 2; Amostaz, *De Causis Piis*, book 2, chapter 6, number 13 to 81; Benedict XIV, *De Synodo Dioecesana*, book 13, chapter last, § 32. Conversely, it is considered explicit. The Supreme Pontiff, after citing the passage mentioned above and presenting a different opinion on the matter, says: "However, others, not fully trusting in this conjecture, suggest that the disposition of the pious founder should be considered from a different perspective; namely, whether it begins with the

Translated by churchlatin.ai, a product of Boyne Archives

imposition of an obligation, or rather, with the designation of the property; and if the disposition begins with the designation of the property or endowment, the income of which is to be used to fulfill the prescribed obligations; then..."

[*Latin ed. p. 89*]

Let the progress of the case in *Concordiae* 89 serve to express and define the burden of the Masses; then, they say, the endowment of the *fundi* appears to have been definitively established. With this premise, it was noted that the Testator first spoke of the burden, stating: "May my daily Mass, which I have founded, have full force." And afterwards, he directed the endowment towards the *fundi*, with a revenue of 535.50 *lire*. He also subjected various immovable properties to a mortgage, for the proper fulfillment of the burden. Therefore, from this series of provisions, and from jurisprudence, it is clear that the legacy is demonstrative, and it is permissible, according to the best of law, to alienate assets from the inheritance to satisfy the legacy, and not to consider the legacy as a detriment to the inheritance. For in a demonstrative legacy, it is understood that the heir must provide whatever is lacking for the fulfillment of the legacy, according to the rule mentioned by Benedict XIV, *loc. cit.* Therefore, whatever is lacking for the daily chapel, having considered the division of assets according to the judgment of the lay court, must be supplemented by the heir from the resources of the inheritance. And therefore, since neither necessity nor utility for the pious cause appears to be present in the matter, it is manifest that the transaction cannot take place. Furthermore, it was noted that it cannot be gathered from the documents presented to the Sacred Congregation that the inheritance was endowed with the benefit of inventory; and therefore, lacking this legal safeguard, the heir is obligated to fully provide for the legacy, as the Text in the final section of the law states. However, as the Code *de cit.* deliberates, and as the Sacred Congregation has often defined in *Camerin*, *Subsidii dotalis* 27 June 1761, *ad I I. Dub. in Burgen*, and *Reductionis* 15 March 1777, it has not benefited the heir to be excused from the burden of fulfilling the testator's will, if it is found that the deceased did not have the power of money, of which he spoke in the will; because it is necessary for him to demonstrate deceit or fraud. Indeed, it seems incredible that such a large sum of money could have disappeared without the heir's fault.

[*Latin ed. p. 90*]

90. From the Sacred Congregation, it is the law that both parties in a transaction ought equally to be burdened with some advantage and disadvantage, so that something may be retained and something relinquished from both sides. Consult the text, in the law concerning Transactions, 38 of the Code of Canon Law concerning Transactions, and law 1, and following,

Translated by churchlatin.ai, a product of Boyne Archives

ibid. Sacred Congregation, in Rome, January 7, 1834, § Difficult. All of these things are clearly lacking in this matter; for from what has been said, the heir alone perceives an advantage, while the Church suffers a loss. Therefore, from the points noted above, it is clear that the proposed transaction was neither necessary nor useful, but rather detrimental, and therefore not at all to be approved.

BUT WHAT IS IN FAVOR OF THE TRANSACTION. Nevertheless, arguments have not been lacking which, from the other side, suggest that the proposed transaction ought to be approved. For, having considered the purpose which gave rise to this stipulation, it has been observed that the principal aim was to settle a dispute involving money and expenses. Moreover, a transaction undertaken to resolve disputes appears to be just, useful, and therefore worthy to be observed by those who enter into it, as the Abbot states in Chapter 1, number 2, concerning Transactions. The Sacred Congregation in Fermo, for the sake of concord, on January 21, 1807, also approved this. Since it is the nature and purpose of a transaction to prevent arising disputes, and this is what the legislators have intended, as can be gathered from the text, in law 1 of the Code of Canon Law, and the Sacred Congregation has repeatedly approved it. This is especially true when those contending for their rights experience doubts, as is evident in this matter. Indeed, although the parish priest had valid reasons to demonstrate the validity of the legacies, the heir was not lacking in arguments to deny the fulfillment of the same, especially considering the law under which we live. Therefore, it was rightly considered that, if the dispute was still pending, and the rights of the contending parties had not yet been examined, the entire matter should be settled by a peaceful transaction. Law 1, and following, concerning Transactions, the Rota before Reminald, Decision 309, number 8.

[*Latin ed. p. 91*]

91. With the aim of achieving concord, and especially to ensure that the pious undertaking would not prove insignificant, Chapter [Finem litibus de dolo, et contrar. leg. Fratres, et leg. Propemodum Cod. de iudic.]. Furthermore, the benefit of the initiated transaction will become more apparent if it is noted that the testator left a legacy to the choir for the proper performance of psalms each day, a sum of money, and also provided that the sacred Scriptures be read for the soul of the testator; and finally, that the parish church should acquire free possession of silver vessels for the performance of sacred functions: these precious objects, according to the testator's judgment, were to be guarded by the heir. Therefore, the initiated pious undertaking has been useful, and is therefore entirely commendable. With these points noted, the matter was referred to the judgment of the Most Reverend Fathers; therefore, a doubt had to be resolved: whether and how the initiated transaction should be approved in this case.

Translated by churchlatin.ai, a product of Boyne Archives

RESOLUTION. The Sacred Congregation, after due consideration, on August 14, 1875, decided to respond affirmatively to all the points raised, with the approval of the Most Holy.

FROM WHICH WE MAY GATHER:

I. For a strict and proper transaction, more conditions must be present, besides necessity and utility, especially if it concerns a pious undertaking.

II. It is primarily required that the transaction be made concerning a matter of doubt; in order to distinguish it from agreements which are usually made concerning a certain and undisputed matter.

III. Therefore, if at the time of the transaction, the party entering into the agreement knew that they had no right in the matter in question, then no...

[*Latin ed. p. 92*]

From Sacred Congregation, Decree 92: A transaction must be free from coercion, and one must restore what has been received as a result of the same transaction. IV. It is also required that the transaction be made concerning a dispute that is uncertain and not yet defined; and that, once a judgment has been pronounced by a judge, and no one appeals, it passes into a res judicata, which is accepted as truth, so that the dispute is no longer uncertain. V. Furthermore, a transaction must be strictly and properly made freely; but if it is burdened with some gift given and retained, or with a promise made or remitted, it must be distinguished from an amicable settlement, which is made freely. VI. A transaction concerning a religious matter is equated by the Sacred Canons with an alienation; therefore, just as such an alienation cannot be carried out by private authority, neither can a transaction. VII. The Holy See sometimes grants ratification to transactions concerning pious causes, in order to eliminate disputes and quarrels, which are most often the cause of great expenses and delays.

SUPPRESSION OF A BENEFICE. September 4, 1875. Summary of the case. Joseph, the parish priest of the Church of Saint R., from the Diocese of N. in France, on April 3, 1823, with the assistance of ecclesiastical authority, caused a benefice to be established under the title of Saint Anthony in the same church, having been assigned several properties. Several founders added conditions, among which we mention those that are relevant to this controversy. They wished, namely: 1.° that the rector of that benefice should reside near the said church, and be obligated to assist the parish priest in the care of souls; 2.° that he should obtain approval from the Ordinary for the ex-

[*Latin ed. p. 93*]

1. Regarding the benefits, the following are stipulated: 93. To obtain the benefits; 3.° That if, within fifteen days from the granting of the endow-

Translated by churchlatin.ai, a product of Boyne Archives

ment, neither a residence nor approval for receiving confessions is established, the recipient shall not be able to enjoy the benefits of the endowment, but rather the Parish Priest, together with the Municipal Council, shall be free to notify the recipient of the invalidity and deprivation of the endowment, without any formal proceedings; 4.° Finally, for the perpetual preservation of the revenues, the founder ordered that the documents pertaining to the endowment be kept in Gafsa, secured with three locks, one held by the Parish Priest, another by the administrator of the Church, and the third to be guarded by the holder of the endowment. The Ordinary, in accordance with the intention of the pious founder, on August 16th of the aforementioned year, 1823, completed the canonical erection, and ratified all the conditions established by the founder, except those relating to obtaining approval for hearing confessions, and the additional penalty. For the founder did not wish to grant the Parish Priest and the Municipal Council the power to remove the endowment, as he had stipulated. But in the documents of erection, it is stated: "Since the obligation imposed on the priest who will receive this endowment consists in obtaining approval to hear confessions, this is absolutely necessary; so that I or my successors may deprive the recipient of this faculty, which will be within our power, without the need to give an account to anyone, if he withdraws from his endowment, without any proceedings, according to the third article of the foundation." On October 1st, 1869, the Priest H. obtained this endowment. However, after a very short time, sharp disagreements arose between him and the Parish Priest of the Church of Saint E., as often happens, to the detriment of the reputation and the souls. The Ordinary, finding no more effective means to eliminate the scandals and resolve the disputes, ordered Priest H. to leave the parish and assigned him another, smaller parish, with his consent. Furthermore, he wrote:

[*Latin ed. p. 94*]

From the Sacred Congregation's decree 94 concerning councils, in order to more easily persuade him; in which decree, zeal and intelligence were already commended regarding the aforementioned presbyter. This man did not wish to submit to the new burden, and, in the midst of his advanced age and the illness with which he was afflicted, he presented lengthy excuses. Henceforth, through repeated letters, the Ordinary gave him a more urgent order to proceed to the new parish; to which he stubbornly resisted, and, because of this, the Ordinary deprived him of the faculty of hearing confessions, judging his excuses and reasons for avoidance to be false and empty. Furthermore, the Bishop learned that certain movable goods belonging to the benefice were present with the presbyter H., contrary to the laws of the foundation; and he ordered that these be placed in Gafsa, to be kept under a triple lock. However, the priest also resisted this order, and, therefore, he was suspended from celebrating the Holy Sacrifice of the

Translated by churchlatin.ai, a product of Boyne Archives

Mass. Feeling greatly burdened by these measures, the presbyter appealed to the Metropolitan, who did not accept the appeal, because the suspension had arisen from informed conscience; for which reason, the only recourse remaining was to appeal to the Holy See. Therefore, relying on the laws of the foundation and erection, namely that the rector of the benefice necessarily incurs a term of office, and since he had been deprived of the faculty of hearing confessions, the aforementioned presbyter was, on October 12, 1874, deprived of the benefice. The presbyter, on the contrary, confident in his own innocence and the immovability of the benefice, opposed the decree and the aforementioned decision of the Bishop.

It seems appropriate here to note that Benedict XIV, in *De Synod. Dioecesana*, book XII, chapter 8, number 4, wrote concerning decrees issued based on informed conscience: "Indeed, it is true that a Bishop, by virtue of the aforementioned decree (Tridentine, session 14, chapter 1, *De reform.*), can forbid a *Cleric* from both the exercise of the sacred ministry and from advancement to a higher *gradum*, so that he is not obligated to reveal to the accused the cause of the suspension or the offense, but only to the Apostolic See, if the suspended party appeals to it; which very point we read in the response of the Sacred Congregation to the Bishop of Vercelli on March 21, 1643." However, Bishops cannot decree a suspension based on informed conscience for a public and notorious crime.

[*Latin ed. p. 95*]

Regarding the deprivation of the benefit, 95 regulations were presented to the Sacred Congregation. He implored, with fervent prayers, that he might be released from both suspensions and restored to the possession of his benefit. A concise summary of the arguments.

FROM THOSE THAT SUPPORT THE EPISCOPAL DECREE:

It was observed that the Decree of the Ordinary, by which the priest H. was entirely deprived of his benefit, must be upheld, because it was based on legitimate and canonical reasons. To demonstrate this more easily, it was noted that this matter could not be judged except by referring to the founding documents of the benefit. Indeed, from the clause included in the founding document, it is clear that the Ordinary can deprive the rector of that benefit of the faculty to hear confessions, and must render an account to someone regarding this matter; therefore, when the Ordinary deprived the priest H. of the faculty to hear confessions, he exercised his right, namely, the right granted to him by the founder and by the act of establishment. And even if this appeared to be the highest of rights, there were, nevertheless, most just reasons that seem to have led the Bishop to such a strict action. The principal reasons were the quarrels and animosities

Translated by churchlatin.ai, a product of Boyne Archives

of this priest with the parish priest and the citizens, his avarice in conducting business; so that everyone requested the Ordinary to remove him. Therefore, the Ordinary proposed another parish to him as a means of avoiding scandal, and to protect the dignity of the same priest. This is not new in law, for the salvation of souls is the supreme law, and the parish priest is given for the people, not the people for the parish priest. Therefore, the Holy Canons have decreed that if the ministry of a parish priest should become either impossible or harmful, even due to the fervor and alienation of souls, or even due to the unjust hatred of the people, the parish priest may either send a notification regarding his benefit, or be transferred elsewhere, according to the text in chapter 5 on the change of things, where it is written: "If the Bishop has examined a necessary cause, he may lawfully..."

[*Latin ed. p. 96*]

96. From the Sacred Congregation, it is permitted to transfer persons from one place to another, so that those who are less useful in one place may be able to exercise their talents more effectively elsewhere. Therefore, when the Bishop attempted, by gentle persuasion, to induce a priest to transfer to another parish under his governance, but without success, he revoked the priest's faculty to hear confessions, in order to restrain his obstinacy and disobedience. It was certain that there was no valid reason for such opposition, since neither his age nor his health were such as to prevent him from undertaking a new responsibility. With this premise established, the decree of deprivation of the benefice was lawfully issued. Indeed, according to the very law of its foundation, and especially according to the clause attached to its erection, if the aforementioned faculty is revoked by the Bishop, the loss of the benefice immediately follows. Therefore, if the suspension from hearing confessions was not unjust, it cannot be said that the deprivation of the benefice is unjust, since it is, as it were, a consequence that flows from the former. No injustice was done to the aforementioned priest H., provided that when anyone accepts a benefice, he accepts it entirely and completely, that is, with all the laws and clauses attached to its foundation and erection. It cannot be argued that such a benefice was declared to be inviolable and residentiary; and that the Rector cannot be deprived of it without canonical reasons; therefore, the Bishop's decree was also invalid for this reason. For the tables of the foundation and erection contradict this argument. For although the founder and the Ordinary who completed the canonical erection might incidentally mention that this benefice is inviolable, they nevertheless, by a formal clause, sufficiently demonstrated that this inviolability should be understood only improperly and generically, and that it is subject to the condition that the Ordinary may deprive the Rector of the faculty to hear confessions, and furthermore, that the loss of this faculty would, as it were, spontaneously

Translated by churchlatin.ai, a product of Boyne Archives

entail the loss of the benefice itself.

[*Latin ed. p. 97*]

The privation [of a benefice] carries with it the invalidity of its perpetuity, without any process or solemnity of law. Furthermore, it cannot be said that this clause and condition were of any validity, since it is well known that the founder could also have established a removable benefice; for this is not prohibited by law. Therefore, if the founder established a benefice, and called it "inamovable," but nevertheless attached a clause and condition limiting this inamovability, he does not seem to have established anything prohibited or unjust. Moreover, it is well known in law that pious founders can impose whatever conditions they wish when establishing benefices and chaplaincies, and these must be religiously observed, provided they are possible and honest, and do not contradict divine or natural law. Cap. Significatum 11 concerning prebends. S. C. C. in Montis Politia Patrimonii Sacri, July 21, 1821. But what has been disputed up to now may seem superfluous: for, granted that the benefice in question is inamovable, the decree of the Bishop must nevertheless be considered valid and just. This is because we are not dealing here with a true beneficiary, who has indeed attained his canonical institution, but simply with a certain precarium [temporary holding] of a benefice, to which, in fact, the laws that apply to the possessors of titular benefices cannot be applied. The Bishop denied that the priest had obtained a canonical institution, nor was he able to present the documents required by the S. C. C. For a true and proper institution of a benefice requires both a Bull from the Bishop and other solemnities of law; so that if these are lacking, no one can be considered a true beneficiary according to the norms of law. Eeiffenstuel, lib. 3, decret., tit. 5, de praebend. et dignitatibus, § 5, de collatione benefic., n. 126, 127. Furthermore, the founder himself must be inquired about the canonical institution. Nor can the triennial possession be invoked, as is said in Acta, tom. IX, page CVII, 7.

[*Latin ed. p. 98*]

98. From the Sacred Congregation, it is possible that any defect may have been remedied, and that the possessor cannot be removed except according to the norms of law. For the Priest H. has fulfilled a three-year possession as a true and titular beneficiary, but only as a simple œconomus and administrator. In law, it is known that no one can change the title of his possession, even if a long time has passed, according to Law 3, ff., §. That which is said concerning the acquisition of possession, where it is stated: "It is also received by the ancients that no one can change the cause of his own possession." Furthermore, in favor of Priest H., the patron of the presbytery has shown that he detests the spirit of the Church and common law regarding the removability of clerics from one church to another, or from

Translated by churchlatin.ai, a product of Boyne Archives

one benefice to another; as the Apostle says, 1 Corinthians 7:20: "Let every man abide in the same calling in which he was called." Dist. 70, c. 2. "In which church anyone is ordained, let him persevere therein perpetually." Therefore, it has become the opinion that the perpetuity or immovability of a beneficiary is considered to be and is of the essence of the benefice. Van Espen, *Commentaria in ius ecclesiasticum universale*, part 2, section 3, title 1, no. 19, states: "Generally, canonists conclude that if an office is established as temporary and revocable at the will of someone, along with the attached right to receive the fruits, it is not properly an ecclesiastical benefice, and if it is made perpetually removable at the will or discretion of someone, it loses the nature of a true benefice." The benefice of which we speak is perpetual or immovable, not only by general legal sanction, but also by considering the founder's precept: "He founded and established the Chapel of St. Anthony as a residential and immovable benefice." The rector who is elected to the chapel will obtain annually and perpetually, as long as he lives, and so also his successors, the fruits and revenues of said endowment. The clause which was actually added by the Ordinary at the time of the erection must be considered of no value; for in law, it is certain that a bishop cannot, even for the worse.

[*Latin ed. p. 99*]

99. Namely, in an act that unjustly deprives [someone] of a benefice, as is the case here, it is not permissible to alter the Founder's will, either for the worse or for the better. And the Sacred Congregation has very frequently declared that decrees establishing a benefice are invalid to that extent to which they deviate from the Founder's intention, as can be seen in the case of the Urbanvetana Chapel of March 10, 1866, § Haec. Furthermore, it has been observed that not only was the Ordinary unable, but also unwilling, to derogate from the Founder's law by establishing the benefice. This is evident from the final words in the act of establishment: "according to article three of the aforementioned act of foundation." Indeed, the Founder conceded in article three that the beneficiary could be deprived [of the benefice], but expressly and in only two cases: either if, within fifteen days from his institution, he 1.° does not reside [there], or 2.° does not present the required permission to hear sacramental confessions. However, in any case, the Ordinary never intended to alter the benefice into one that could be removed at will, since he expressly declared that he was establishing an immovable benefice. Consequently, the decree against the aforementioned priest cannot be sustained in any way; because he lacks the formal process required by law for the deprivation of immovable benefices, and there is no valid reason for his removal from even revocable benefices at the will [of the Ordinary].

The patron then proceeded to refute the alleged non-existence of the title, saying: "If the collation of the benefice were nonexistent, it could not be

Translated by churchlatin.ai, a product of Boyne Archives

conceived that both the Bishop, in his letters of April 28, 1874, and the Court itself, in the decree of October 18, would have referred to the clause in the instrument of establishment, which certainly and more precisely speaks of the titular [holder], and not of the administrator or steward." For if the title were lacking, the suspensions imposed on the priest from hearing confessions would be utterly useless, and...

[*Latin ed. p. 100*]

From the decrees of the Holy Council, it is clear that, without all these things, the Curia could have removed him. It has been demonstrated by learned men that the formalities commonly used in the collation and transmission of possession of Benefices are not so necessary that without them, the collation cannot be valid, nor can it be proven. For the sending of letters does not pertain to the essence or substance of the grace or the collation itself: De Luca, *de alien*, disp. 1, no. 113; indeed, it is not even required for the proof of the subsequent collation: De Luca, *de Benef.*, disp. 131, no. 4; Van Espen, *comment. in ius eccles.*, univ. part. 2, sect. 3, tit. 4, chap. 2, no. 7. - There: Regarding the form for the collation conferred by Ordinary collators, whether a Bishop or another inferior, nothing is prescribed in the law, and it seems that it can be accomplished by the common law word; nor is any scriptural passage required. Nor are the Holy Canons more rigid regarding the formalities usually observed in acquiring possession of Benefices: De Luca, *Summa Benef.*, no. 247 and following. - There: Except for the canonical institutions of Cathedrals and Collegiate churches, and also Dignities, insofar as they are by custom, and of Chapters, of which possession must be acquired capitularly, and otherwise is considered as not obtained, unless it is established by the Chapter that it is not prevented; in the rest, no specific form is prescribed for acquiring possession; it suffices to acquire it in the principal church, to the extent that it exists, or at the altar, or in that property, or place where it is customary. With these premises, it follows that in this matter, the proceedings should have followed the local laws and the special laws of the Benefice. Therefore, considering the law of the foundation of the Benefice of Saint Anthony, when it is conferred upon someone, 1.° certain persons must be delegated who will assist in exercising the acts of dominion over the beneficial goods: 2.° in the act of the transmission of possession, an inventory of all the beneficial goods must be made before the persons likewise designated.

[*Latin ed. p. 101*]

Concerning the benefit of deprivation, act of the notary. These things were prescribed only to the founder for the institution in the Benefice of St. Anthony; and these, and no others, were practiced with all, and with each beneficiary. Thus, if these are to be considered sufficient to signify the true institution in the benefice, then everything must be understood to

Translated by churchlatin.ai, a product of Boyne Archives

be the case; otherwise, many absurdities must be admitted. And first, this benefice was never conferred from its foundation; its administration was entrusted to external persons, with the collection of the fruits; whereas the founder ordered that the benefice be administered gratuitously during the vacancy by the pastor of the parish of St. R. and the municipal council. This was so true that the very Curia, by decree of October 12th of the preceding year, entrusted the administration to these individuals, having deprived the priest H. of it. Furthermore, the same founder, then, dedicated the words "Beneficiatum" to the pastor, to signify the definitive provision of the benefice; and the words "oeconomum," to the administrator, to demonstrate the provisional concession. However, the Ordinary, in every respect, whether orally or in writing, conferred the title of priest upon the pastor H. and the beneficiary. Finally, the priest H. on January 30, 1873, with the permission of the Bishop, alienated the clerical property in favor of V. Indeed, it is clear to everyone that the alienation of the St. property has no validity without the support of an irrevocable title. Moreover, the benefice itself would become removable in that person, even if it is an immovable benefice, if that person has the power to remove it, and consents to the alienation of the clerical title, as De Luca, De Benef., disc. 97, n. 27, and elsewhere, states. Finally, the priest IT. rendered the following document from the Registry, concerning the three-year possession: "Furthermore, the same Lord Our [Pope Innocent X] decreed and ordered that if anyone should possess any ecclesiastical benefices, whatever they may be, without any simoniacal gain, by any title, either by Apostolic or ordinary collation or election, and by such an election, the following rule shall be observed..."

[*Latin ed. p. 102*]

102 From the Sacred Congregation, it is decreed that anyone who has peacefully held a benefice for three years in accordance with its nature, has the right to claim a higher title from the world. To the contrary, whether it be a private person or an Ordinary, no credence shall be given, at least until he proves that the title is invalid by an exception expressly stated in the aforementioned constitution, or that he does not demonstrate by conclusive proofs the non-existence of any title whatsoever. See Riganti in Reg. 36, no. 18; Mascard, de prob. concili. 1378, no. 60 et seq.; Lott. de re bened., lib. 2, q. 53, no. 15, and q. 46, no. 42 et seq. With these points noted on both sides, the following question was to be resolved: How is the decree of the Bishop to be upheld in this case?

RESOLUTION. The Sacred Congregation, after due consideration, on September 4, 1875, decided: The decree is not to be upheld.

FROM WHICH IT IS UNDERSTOOD:

I. That pious founders, when establishing benefices or chaplaincies, can,

Translated by churchlatin.ai, a product of Boyne Archives

by law, add any conditions they deem fitting (even those contrary to common law), provided they are possible and honest, and do not contradict divine or natural law.

II. That those conditions added by the founders, and those who, during the three years of peaceful possession, are involved in the confirmation, or presentation and institution of those to whom the collation, provision, election, presentation, or any other disposition pertaining to such benefices, cannot be disturbed in those benefices, provided that they have not been hindered in such benefices by an Apostolic reservation contained in the general body of the law; and that any petitions made concerning such benefices, thus possessed, must be declared invalid and void, extinguishing entirely any ancient disputes concerning them.

[*Latin ed. p. 103*]

103. The benefits [of institutions] established by the Bishop, having been agreed upon and approved, must be religiously observed.

111. Therefore, such conditions cannot in any way be modified by the Ordinary in the actual erection [of the institution]; because the will of the pious founders cannot be changed, neither for the worse, nor for the better.

IV. A benefit may be lost due to grave crimes noted in law, such as homicide, simony, and perjury; which, if they are public and notorious, demand a public sentence according to the order of law, or a prior formal process.

V. According to the opinion of the Doctors, the sending of letters [of appointment] is not so necessary that the collation [of the benefit] cannot take place without them, nor that it cannot be proven without them; since, according to law, it seems that the collation can be carried out and proven by writing and by word.

VI. A certain form for acquiring possession of benefits is not prescribed by the sacred canons, except for Canonicates and Dignities of Cathedrals and Collegiate Churches; the possession of which, so that it may not be considered invalid, must be obtained capitularly [i.e., by the chapter].

VII. Therefore, no form is prescribed for obtaining possession of other benefits; but it seems sufficient to acquire it according to local laws and the customs of benefits.

VIII. Rule of the Chancery 36: It is safe to consider a benefit as being in its possession, if the one who has been peacefully in the benefit, which is by its nature immovable, for three years.

IX. No credence should be given to those who would harass such a possessor, unless they first prove that the title was invalid due to a simoniacal entrance; or, unless they conclusively demonstrate with all proofs the non-

Translated by churchlatin.ai, a product of Boyne Archives

existence of any title whatsoever.

[*Latin ed. p. 104*]

From the Sacred Congregation of Councils, 104, regarding PRESENTATION and INSTITUTION. Dated 4 September and 11 December 1875. Summary of the case. In the City of N., the parish of Saints Gregory and Stephen is located, which previously existed in the Church of Saint Roch, but now is governed and administered in the Church of the Holy Martyrs Solutor, Adventorius, and Octavius. This parish remained without a pastor since 7 July 1873, due to the death of its last possessor. Therefore, the venerable Sodalitium, which belongs to the churches of Saint Roch, of the Holy Death, and of Prayer, and which rightfully uses the patronage, on 27 October 1873, almost unanimously elected a priest, G., who was already a parish priest of another parish, and presented him to the Ordinary through letters dated 28 of the aforementioned month and year, so that he might be instituted. However, the Ordinary, for the time being, refused to grant the institution to the elected and presented priest, but advised him to send a notification of the election and presentation, considering this presentation to be tainted with a flaw of nullity. The Ordinary then denied Priest G. the power to administer the sacraments of confession and absolution, and also forbade him from preaching outside the boundaries of his parish. Bearing this grievance in mind, Priest G., having used all means in vain to dissuade the Ordinary from his decision, together with the Venerable Sodalitium of Saint Council, appealed to the Sacred Congregation, requesting that it would deign to order the Ordinary to grant the institution to the petitioner, having obtained the nomination from the Sodalitium of Saint Roch. Synopsis of the discussion. POINTS TO BE CONSIDERED REGARDING THE GRANTING OF THE INSTITUTION. The patron, Priest G., divided his argument into three parts: 1st, regarding the justice and efficacy of the presentation; 2nd, regarding the institution to be granted by the Ordinary; and 3rd, regarding the devolution of the right to the Holy Apostolic See, since the Ordinary refused to grant it. Therefore, with regard to the first part...

[*Latin ed. p. 105*]

The Advocate argued that, concerning the presentation and institution of a priest, there could be no doubt about the validity of the nomination and presentation; and that no exception could be raised either regarding the right of patronage, nor concerning the preponderance of votes, nor regarding the regularity of the nomination and presentation itself; provided that the nomination and presentation had been made within the time granted by the Holy Canons for that purpose. And although it may have seemed that there was some doubt regarding such an election, nevertheless, the complaint of nullity should be entirely rejected, according to the rule of law, by which it is always to be understood in cases of doubt to adopt

Translated by churchlatin.ai, a product of Boyne Archives

the more benign and lenient interpretation. But in court, nothing is more common than the complaint of nullity being considered most odious, requiring strong and difficult proof, and therefore to be rejected in any doubt. Furthermore, it should be noted that the Ordinary had suggested that an agreement had preceded between himself and the Sodality regarding the election of a pastor from among the candidates proposed by the same Ordinary. This, however, lacked all documentation; and although it might be admitted, it nevertheless presents a significant ambiguity, since it is one thing to say that someone from the Sodality had participated in such an agreement, and another to say that the entire Sodality had been involved. Therefore, the Advocate concluded that the complaint of nullity should be rejected. Having demonstrated that the nomination and presentation of the priest G. were valid and legitimate, the Advocate declared that the Ordinary should proceed to grant him the institution. For it is not within the power of the Ordinary to render the rights of patronage ineffective and void; moreover, it is not a matter of extinguishing a right that has been acquired, but of inflicting a wound upon the reputation and honor of the presented priest himself, who would find himself in a most deplorable situation, being unable to find any other provision in the future, as is argued after Canon 16, question 7, from Pitonio, *controvers. patron.*, allegation 7 and 8, number 47; from De Luca, *de iure patr.*, discourse 64, number 1, and discourse 31, number 8.

[*Latin ed. p. 106*]

From the Sacred Congregation, it has not been permitted to deny institution [to the priesthood], except if the presented candidate was unworthy or incapable; because both law and fact are opposed to such an assertion. Law is opposed, because it cannot be asserted gratuitously; but it must be clearly and conclusively proven, as stated by Lambertinus concerning the right of patronage, book 1, law 2, question 9, article 16; and by Garzia concerning benefices, part 7, chapter 8, number 47. Fact is opposed, because concerning life, morals, and suitability, the Ordinary has sufficiently demonstrated the unworthiness of the presented person, even to the extent that he himself offered the candidate other parishes of no less importance or gravity. And this is all the more to be held, because the matter concerned a presentation made by lay patrons, who are not bound by any law to present a more worthy candidate, as Pitonius states concerning controversies regarding patronage, allegation 100, numbers 16, 17, and 18, citing Tridentinum, Session 24, chapter 18, concerning reformed matters. Nor can it be denied that the presbyter G. was worthy of institution, since his suitability had been repeatedly demonstrated before the Synodal Examiners, who appointed him to govern parishes, of which he was prefect. Thirdly, the advocate pointed out that the granting of institution is a matter of fact, to which no one can be compelled; therefore, so that the Ordinary may not appear to

Translated by churchlatin.ai, a product of Boyne Archives

violate the rights of patronage, or to injure the right of a third party, he has recourse to the jurisprudence of the Holy Canons, and may appeal to the Holy Father. For all rights naturally devolve upon him, and the institution refused by the Ordinary may be obtained from him.

THINGS OPPOSED TO THE GRANTING OF INSTITUTION.

The advocate for the Episcopal Curia stated that it is worthy of note that the Sacred Canons stipulate that lay patrons, within four months, must not only nominate, but also present the candidate to the Ordinary, according to the methods and forms established by law. If these are omitted, the patron is deprived of the right to present for that occasion, and the right devolves to the Ordinary. But in order for the presentation to be made canonically...

[*Latin ed. p. 107*]

Regarding the presentation and institution, it can be said that the concurrence of three parties is required: the presenter, the presented, and the Ordinary. The presenter and the presented must swear before the Ordinary that no illicit agreement has intervened between them, and this must be proven in an authentic manner. With these premises, it is clear that the priest G. was not validly elected according to the norms of law; for it is not possible to substitute a canonical presentation with a simple transmission of a nomination. Furthermore, it does not appear that priest G. has complied with the forms prescribed by law, nor that he has accepted the presentation, but rather only the nomination. Therefore, the fiscal procurator argued that the Sodalitium had lost the right to present, and that the matter had reverted to the Ordinary. Moreover, it was observed that the physical presence of the presented before the one who is to institute is manifestly required, as Barbosa argues in *De iure patronat.*, part 3, sections 110 and 114; Lambertinus, *Quaestiones,* part 1, section 1, number 1, regarding the law of patronage; and there: ”Presentation is a certain exhibition made of the cleric, with the physical presence of that to whom the presentation is made.” It cannot be argued that it is useful for priest G. to have been known to the Ordinary, nor that the personal presentation of the presented was absolutely necessary. For if this could perhaps be asserted and defended in the case of a simple benefice, it certainly cannot apply to a benefice with the care of souls. On the contrary, it cannot be omitted that the Ordinary, having barely received notice of this nomination, did not only fail to approve it, but completely rejected it; and therefore, it could not have been possible for the presentation of the elected to take place before the Ordinary within the legally defined time. With these premises, the following questions must be resolved. I. Whether the validity and efficacy of the presentation are

Translated by churchlatin.ai, a product of Boyne Archives

established in this case.

[*Latin ed. p. 108*]

From the Sacred Congregation, Decree 108. And concerning the affirmative. Question 11. Whether and from whom the institution should be given in this case. The Sacred Congregation, having knowledge of the cause, on September 4, 1875, judged it fitting to respond: "It is to be deferred until after the waters [i.e., after the baptism]."

PROCEEDING OF THE CAUSE. Having issued such a decree, the Ordinary, through his advocate, presented the following to the records: namely, that he had sent a messenger with a petition for the nullity of the case, in the event that the Sacred Congregation considered the nomination and acceptance to be valid, but he requested that the priest G. be subjected to an examination both concerning his knowledge and concerning other requirements established by the Council of Trent for a parish priest, who, in this case, should have presided over the parish, among other notable duties. With these brief additions, the same two propositions were to be clarified.

Question 1. Whether the institution in this case is valid and effective. And concerning the affirmative. Question 11. Whether and from whom the institution should be given in this case.

RESOLUTION. The Sacred Congregation, on December 11, 1875, after again discussing the cause, judged it fitting to respond: "Regarding Question 1 and Question 11, the preliminary examination concerning the form of the institution is to be referred to the Archbishop."

THEREFORE, IT IS UNDERSTOOD:

1. That for the presentation to be perfect and to produce its intended effect, it must be made by the presenter and actually exhibited to the Ordinary; it is not sufficient for the letters of presentation to have been legitimately dispatched and accepted.

2. According to the norm of the Council of Trent, Session 24, chapter 18, concerning Reforms, a preliminary examination for the form of the institution is required.

[*Latin ed. p. 109*]

I. Presentation and institution must be carried out in such a way that, in the absence of the one presenting, no institution takes place, especially in parochial benefices.

II. Ordinaries should have the power to accept the presentation of an absent person, provided they are duly informed of it, since only physical presence is required for the examination concerning the institution, but not at all for the presentation itself.

Translated by churchlatin.ai, a product of Boyne Archives

III. He who has the power to institute must, first of all, legally institute the person who has been duly presented, both in secular and ecclesiastical benefices.

IV. A notable delay, or an unreasonable refusal to institute, harms both the rights of the patron and the rights of the presented. It also inflicts a wound upon the reputation of the presented, and, moreover, can gravely endanger souls if the benefice is a parochial one.

V. The law of the Sacred Canons and the jurisprudence of the Church admit of an appeal to the Apostolic See whenever the person to whom the institution pertains either unduly delays or openly refuses to grant the institution.

2. DOUBTS CONCERNING CERTAIN PRIVILEGES OF REGULARS.

September 4, 1875. The Bishop N. addressed a supplication to the Sacred Congregation of Bishops and Regulars, stating:

"I. In the letters, approved by the Ordinary, for priests, both of the Secular Clergy and of any Order, the Council of Trent, Session VII, chapter 13, speaking of institution, decreed: 'Those presented, elected, or nominated by anyone... to any ecclesiastical benefice, are not instituted... unless they have first been examined by the local Ordinaries and found to be suitable.' Therefore, if the words of the Council of Trent are considered, all presented and nominated indiscriminately for any benefice, and by any patron, should be examined by the Ordinaries and judged to be suitable before they are instituted. However, practice or custom has restricted this to almost only those benefices to which the care of souls is attached, and other benefices are exempted from such an examination. The time for making the presentation for benefices is not found in the law to be fixed and determined, provided that it is not unduly delayed. And 8..."

[*Latin ed. p. 110*]

110 From the Sacred Congregation "de dinis Religiosi, concerning the hearing of the confessions of the faithful, etc." (which is found in this our archive, the following clause being included among others: "We... grant to Priest N. N. by these presents the faculty for one year, or for two years, three years, etc., to hear the confessions of the faithful, to preach the Gospel, and to celebrate the most holy Sacrifice of the Mass." But before such a license or faculty is granted for a specified period, Priests, for the sake of this faculty, are obliged to petition the Ordinary for a new extension, and then they undergo a synod or examination to test their knowledge and suitability. Some Religious, however, take exception to the aforementioned clause, namely, with regard to the limitation of time for celebrating Mass, asserting that it is contrary to their privileges and exemptions. Nevertheless, I, although apprehensive, and fearing that I may be in error, judge that all exemptions

Translated by churchlatin.ai, a product of Boyne Archives

and privileges of Religious, since they derive their origin from the very Apostolic See, are not thereby violated... Therefore, I ask Your Holiness:

I. Does the aforementioned clause in any way contradict the rights and exemptions of Religious?

II. When, for a just cause, a Religious Priest living outside the cloister, due to public disturbance and anti-Catholic laws, is subject to the penalty of suspension, even from celebrating Mass, is the benefit of institution not devolved from the fact that the Ordinary has withdrawn it, since there was no specified time set for the institution to be conferred, as was specified by the one conferring it? However, a certain time may be assigned by a higher authority for the completion of the institution; and if it is not completed within that time, those who are obligated to do so may be compelled. St. Pius V, in the Constitution "In conferendo," § 4, states that in the case of parochial vicars, the institution must be completed within two months from the date of presentation, and that if Ordinaries are negligent in conferring the institution, the patrons may have recourse to the Metropolitan, to the nearest Ordinary, or to the Apostolic See, to obtain such an institution. However, in order to appeal from a delayed or denied institution and negligence, a threefold notification is required. *Rota in una Feltrino, Canonicatus, 5 December 1603, before D. Ortembergo.*

[*Latin ed. p. 111*]

Doubts concerning the privileges of religious orders 111: "Does this exceed the limits of the law, and is it acting wrongly? Or, as I believe, is it acting lawfully and reasonably, and therefore is the Religious bound to obey and submit to the imposed penalty? What, then, is the law in this case? For the religious are indeed honoring the suspension insofar as it concerns the confessions of the faithful and the preaching of the Gospel, but in no way insofar as it concerns the celebration of the Mass, believing that such a penalty unjustly harms the privileges and exemptions of the Bishop; and they refuse to obey and resist the authority of the Ordinary. Hence, as is evident, various and very serious inconveniences arise."

With these matters in mind, the Holy Congregation for Religious Orders and Bishops, which is responsible for the affairs of these matters, when considering the interpretation of the Council of Trent, responded: "Let this be transmitted to the Congregation of the Council."

Upon receiving the document, the aforementioned Congregation issued a decree, after a summary examination.

A synopsis of the discussion.

It was noted that, by virtue of its authority, the Constitution of St. Pius V, *Etsi Mendicantium*, dated June 17, 1567, freed the Mendicant orders from many burdens imposed upon them by the Bishops, and that many passages of the Council of Trent declare this.

Translated by churchlatin.ai, a product of Boyne Archives

Indeed, § 8, while recalling the obligation of the faithful to attend Mass at least on Sundays and major feast days in their churches, adds: "We wish that it should not be forbidden to the Mendicant Fathers (by the Bishops) to celebrate Masses and other divine offices, not only in their churches, but also in any other places where Masses are customarily celebrated, even without being called or requested to do so."

Furthermore, it was determined that the same Religious have been granted the faculty of admitting visiting Religious to the celebration of the Holy Sacrifice, without the permission of the Bishop, as decided by the Sacred Congregation for the Propagation of the Faith, on June 28, 1626 (in Nicol, *lucubr. Canon.*, Vol. 2, Book 3, Title 31, No. 15), in which it is stated:

[*Latin ed. p. 112*]

112 From the Sacred Congregation, concerning: Ordinary pastors of dioceses, by order of the Sacred Council of Trent, cannot prohibit Regular clergy from celebrating Mass in the churches of their own Order, without their permission. Furthermore, in addition to the decree of Trent, the Sacred Congregations of Bishops and Regulars, in Syracuse, on April 19, 1606, expressly decreed concerning the Order of Jerusalem, that: The Bishop cannot prohibit the celebration of Mass in the churches of the Order of Jerusalem, by priests, both brothers and chaplains, without his permission. However, this privilege, although granted to a Military Order, provided that it does not harm, but rather fosters, the observance of the rule, undoubtedly seems to be applicable to other Religious Orders as well. For privileges are not granted from one Religious Order to another only when such a communication weakens the observance of the rule, as Suarez teaches in book 8, on Laws, chapter 17, paragraph 5, and Schmalzgrueber, Ecclesiastical Law, Volume V, Part III, Title 33, On Privileges. Indeed, all of these things sufficiently and abundantly indicate that Regular clergy should be left with complete freedom regarding the celebration of Mass. On the other hand, the following should be noted. That the Reverend Bishop, granting the secular clergy the faculty of celebrating the most Holy Sacrifice of the Mass, according to the aforementioned clause, can do so, no prudent person can reasonably doubt, provided that, all other things being equal, the daily practice of the Vicariate of the City clearly demonstrates this. Indeed, Regular clergy, living outside the cloister during these difficult times, seem to be placed on a level with secular priests. Therefore, concerning ecclesiastical policy and discipline, they cannot be exempted from the jurisdiction of the Ordinary pastor of the place where they reside. Consequently, it has been deemed permissible for the Bishop to grant them the faculty of celebrating Mass, according to the aforementioned clause. Furthermore, it is reported from the Sacred

Translated by churchlatin.ai, a product of Boyne Archives

Penitentiary Apostolic, on April 18, 1867: "It is thus..."

[*Latin ed. p. 113*]

Concerning doubts regarding the privileges of religious orders, 113: <(which, following the mandates of the Holy See by the Penitentiary, considering... decrees: "II... It is permitted that each religious living outside the cloister, with regard to ecclesiastical discipline and governance, is not exempt from the jurisdiction of the Ordinary of the place in which he resides; however, with regard to religious discipline and obligations, which arise from the religious profession, and which are compatible with his new status, he is subject to his own Superiors and is bound to obey them. <(X. It is declared and decreed that suppressed religious orders... may... notwithstanding the lack of a sacred title, exercise their orders, and celebrate Mass in any church, with the permission of the Ordinary of the place." Regarding the 11th doubt, it has been investigated in the law that religious are entirely subject to the Bishop, if they live and sin outside the cloister, as expressly stated in the Council of Trent, Session VI on Reform, chapter 5, where it is said: "No religious person living outside the monastery, even under the pretext of the privileges of his order, shall be considered safe, so that, if he commits a fault, he may be visited, punished, and corrected by the Ordinary of the place, as if by a delegate of the Apostolic See, according to canonical sanctions." These warnings of the Council of Trent apply even more to the suffragan Bishop, because in particular cases (as in the matter at hand), in which, by virtue of the aforementioned Council, the power is given to Bishops to coerce, correct, and punish religious, they can be subject to censures, and therefore also suspended from celebrating Mass, unless they have privileges granted or confirmed to them for this purpose after the Council of Trent, as decided by the Sacred Congregation of Rites in Taranto on May 16, 1642, and in Camerino on February 21, 1699, and also approved by the Sacred Congregation of the Council in Venafranca in the Interdicts of January 26, 1679. And Cardinal De Luca in *Miscellanea*, discourse 15, number 8, asserts that this point, after the promulgation of the Constitution of Gregory XV beginning with *Inscrutabili*, no longer merits further discussion. Also, Barbosa *De officio et potestate Episcopi*, 5 Acts, volume IX, page CVII, number 8.

[*Latin ed. p. 114*]

114 From S. C. Concilii, part 3, appendix 78, no. 25; Monacelli Formulary, Vol. IV, supplement to Vol. II, no. 355; Ventriglia in Prax., part I, notes, 48, § Huic, no. 106; Gallemart, Collection, in Council of Trent, Session XV, chapter 13, references, and others, who hold that Bishops can impose censures on Regular Canons, not as judges, but as executors of the law. However, it has been observed that the matter concerns Regular Canons living outside

Translated by churchlatin.ai, a product of Boyne Archives

the cloister due to necessity, and not by their own free will and without the permission of their Superiors. Indeed, there are Doctors who say that the decree of Trent should be understood only in relation to Religious living outside the monastery without the permission of the Prelate, and not in relation to those who have this permission. Thus, Céspedes, Tract on Exemptions of the Regular Canonries, chapter 16, doubt 245, no. 3; Peyrinis, Vol. I, Privileges, in 2, Constitution of Sixtus IV, § II, no. 22; Donatus, Prax. Rer. Regul., Vol. I, on Exempt Religious, Tract XIII, page 271, § 35, 4. And this is held because a Regular Canon is said to be in the monastery, wherever he may be found, with the permission or order of his Superior, Panormitan, in chapter from the rescript on oaths, no. 5; and also because it is just and equitable that he who is visited and punished annually by his Superior, and as often as it is necessary, should not be punished by another, or that he should be subjected to another extraordinary judge, lest he be overwhelmed by double grief. Finally, it has been deemed worthy of note that Doctors fiercely dispute the application of this Tridentine decree to Regular Canons living outside the cloister in any way, among whom are Sánchez, On Marriage, book 5, discussion 35, no. 28; Donatus, loc. cit., question 24; Henriquez in Summa, book VII, chapter 25, § 7; Peyrinis, Vol. I, in Constitution 2, Sixtus IV, no. 60; Tamburin, on the law of abbots, Vol. I, discussion 19, question 7, no. 7; Ferraris in Bibliotheca, under the word Regular Canons, article 11, nos. 80, 81. For there they say that Bishops cannot proceed with such censures against Regular Canons, not only because of...

[*Latin ed. p. 115*]

Doubts concerning the privileges of religious orders: 115. When did it grant them this power, and did it express it in definite terms? Moreover, there is no religious order which does not claim to possess such a privilege, either through a special concession or through a general communication. Having stated these points for both sides, it was left to the judgment and wisdom of the Most Holy Fathers to decide what should be the response to the proposed doubts. RESOLUTION. The Sacred Congregation, having considered the matter, on the 4th of September, 1875, decided: The actions of Bishop N. do not exceed the limits of the law. THEREFORE, IT IS UNDERSTOOD: I. That religious who live outside the cloister can, in certain circumstances, be equated with secular priests, and therefore cannot be entirely exempted from the jurisdiction of the Ordinary in the place where they reside. II. Consequently, in these circumstances, they must be subject to their own Superiors regarding the regular discipline and the obligations arising from that discipline, and insofar as this is compatible with the new situation; but with regard to ecclesiastical matters, they must be subject to the jurisdiction of the Bishops. III. Hence, from certain Decrees, it can be inferred that Bishops possess the faculty of relaxing censures against

Translated by churchlatin.ai, a product of Boyne Archives

religious who are contumacious and who are living and acting outside the cloister; and this, not as judges, but as executors of the law, or as delegates of the Holy See. IV. Furthermore, Ordinaries can also regulate the faculty for these religious who are living outside the cloister to celebrate the Holy Sacrifice of the Mass, to hear the confessions of the faithful, and to preach the Holy Gospel.

[*Latin ed. p. 116*]

From the Apostolic Penitentiary: Since the Italian government had established a system for visiting seminaries through ministers appointed for that purpose, the directors of these seminaries appealed to the Holy Penitentiary Tribunal, explaining their situation in the following manner: 1. Regarding the information requested by the government concerning these same seminaries; 2. Regarding the visitations by the royal commissary for studies. The Holy Tribunal considered it appropriate to respond as follows: 1. To avoid more serious evils that could not otherwise be prevented, it is permissible for the director of a seminary to provide the government with the information that the government violently demands about the seminary itself; however, this must be done with a prior declaration, in which it is stated that the seminary is entirely free and exempt from any secular authority, as is established by the Council of Trent; and with caution that the government ministers do not interfere in the studies and discipline of the seminary (which must never be tolerated). 2. To the extent that, after employing all means and precautions that prudence and zeal for religion suggest, the visit by the royal commissary cannot be avoided, and other serious evils are feared; and provided that the visit is of such a nature that the proper regulation of the seminary's discipline and studies remains intact with the bishop, one may passively accept it; however, this must be done with a prior declaration, in which it is stated that the seminary is entirely free and exempt from any secular authority, as is established by the Holy Council of Trent.

[*Latin ed. p. 117*]

FROM THE HOLY CONGREGATION OF THE HOLY ROMAN CHURCH, INQUISITION: DECREE. On Thursday, the 16th of February, 1876. The Most Holy and Most Reverend Sacred Congregation of Cardinals of the entire Christian Republic, concerning the Inquisition against heretical perversity, on Thursday, the 16th of February, 1876, condemned and proscribed the following work, as it condemns and proscribes, and ordered that it be referred to the Index of Prohibited Books: the pamphlet entitled: "Dei doveri della donna – pensieri di ADALGISA COSTA di Milano" – Rome – Cotta e Compagno, Typographers of the Senate of the Kingdom – Palazzo Madama. On the same day, and on the Holy Day, the Most Holy Lord, Our Pope Pius IX, by Divine Providence, having heard a

Translated by churchlatin.ai, a product of Boyne Archives

report concerning the aforementioned pamphlet, confirmed the decree and ordered that it be promulgated. Given in Rome, on the 22nd of February, 1876. FR. VINCENTIUS LEO SALLUA, of the Order of Preachers, General Commissary of the Holy Roman and Universal Inquisition. Juvenalis Pelami, of the Holy Roman and Universal Inquisition, Notary. In the place of three seals. On the 24th of February, 1876, I, the undersigned, Master of the Curia, testify that the aforementioned Decree was affixed and published in the City. Philippus Ossani, Master of the Curia.

[*Latin ed. p. 118*]

FROM THE VATICAN, the Brief of the Most Holy Pope Pius IX, by which the faculties of Chaplains of the French Military are regulated. PIUS PP. IX. FOR THE PERPETUAL REMEMBRANCE OF THIS. That these things, which are good, prosperous, and beneficial for the Catholic name and for the eternal salvation of the faithful, may come to pass, We are reminded by the office of the highest Apostleship, which We humbly undertake, though undeserving. Therefore, since last year, in the assembly of the French, concerning the enactment of laws and the determination of taxes, words were spoken about establishing priests, or chaplains, commonly called *aumôniers*, for Catholics who serve in the terrestrial army of the Republic, and it has been decided to establish such priests, or chaplains, as *præsidiarii*, who are assigned to the garrisons, and who, attached to the legions, cohorts, or companies of the terrestrial forces, will care for the divine things under the jurisdiction and authority of the sacred prelates, who remain in the dioceses of the aforementioned forces: We have, in order that the good of these Catholics may be suitably and sufficiently considered, decreed the following, with Our Apostolic authority. In those places where French forces are stationed, such priests, or chaplains, *præsidiarii*, shall be entirely subject in spiritual matters to the Archbishops, or Bishops, of those places. But when the same forces are outside of the stations...

[*Latin ed. p. 119*]

One hundred and nineteen Apostolic Letters having been issued (mobilized), so that the eternal salvation of souls, for whose sake we dedicate all our efforts and thoughts, may not suffer any detriment, We, by Our Apostolic authority, and by the tenor of these presents, grant to each and all priests, or chaplains of this kind, namely, both superiors and their subjects, who have followed the standard, that each and every one of them, whether outside the diocese, and both within and outside the territory of the Kingdom of France, may freely and lawfully exercise all those faculties which they enjoyed in the diocese by the concession of their own Archbishop or Bishop, before they left their established positions. Furthermore, We add the following faculties:

Translated by churchlatin.ai, a product of Boyne Archives

I. That each and every one of them, even for one hour, or before dawn, or after midday, and when urgent necessity demands it, outside the church, and in a decent place, over a portable altar, a sacred stone, and with the necessary furnishings, in the presence also of non-believers, heretics, and excommunicated persons, provided that it cannot be done otherwise, and that there is no danger of sacrilege, scandal, or irreverence, may perform the sacred rites, and, if necessity equally requires it, may perform them twice in the same day; and also, on each second or third day, if not hindered, they may celebrate one Mass for the Dead, over a portable altar, a sacred stone, and with the furnishings as mentioned above, and may be able to do so.

II. That each and every one of them may administer the sacraments of the Church to all the faithful Christians who are serving in the army of France, or who, in the present circumstances, are in any way connected with the army, subject to the observance of the laws and regulations of this Apostolic See, and of the local ordinaries, through whose territories the said armies pass, or in which they are stationed; also, they may absolve the faithful Christians whom We have described, from any offenses, subject to the same laws and regulations.

[*Latin ed. p. 120*]

120. Moreover, from the Vatican, those who have been converted from heresy and apostasy, and from schism, who nevertheless do not have the sacramental ability to perform confession, may, provided they are contrite of heart, be granted a plenary indulgence and remission of sins at the hour of death, in the Lord.

121. That each and every one of those mentioned, namely, the faithful of Christ, who, truly penitent, and having confessed, and having been strengthened by the Holy Communion, on the Lord's Day, and on the feasts of the Nativity of Our Lord Jesus Christ, and of the Immaculate Conception and Assumption of the Blessed Virgin Mary, shall offer pious prayers to God for the concord of Christian princes, the eradication of heresies, the conversion of sinners, and the exaltation of the Holy Mother Church, may be granted a plenary remission of all their sins, applicable also to the deceased, as stated above.

122. That each and every one of those aforementioned faithful, who have been absolved from heresy, even from apostasy and schism, in the forum of conscience, and who, with due observance, may be reconciled to the Holy Mother Church; furthermore, they may freely and lawfully bless vessels, altars, vestments, ornaments, and whatever pertains to divine worship and is necessary for spiritual service.

123. However, we decree that the priests, or chaplains, whom we have mentioned, shall exercise these and all such faculties only during the expedition, and only when the time and necessity require it, and that they shall

Translated by churchlatin.ai, a product of Boyne Archives

be able to use them, being subject to the Ordinaries of the places through which the army passes, or in which the expedition is stationed.

124. Furthermore, we decree that these present letters, or even printed copies thereof, shall have the same validity as the originals, if signed by the hand of a public notary and sealed with the seal of a person ecclesiastically constituted in office, provided they are presented.

[*Latin ed. p. 121*]

Apostolic Letters, number 121, or exhibited. Notwithstanding those who may act to the contrary. Given in Rome, at Saint Peter's, under the seal of the Pontiff, on the 6th of July, 1875, in the thirtieth year of Our Pontificate. F. Card. ASQUINITIUS. L. gg S. FROM THE HOLY CONGREGATION FOR THE COUNCIL OF PAROCHIAL JURISDICTION. On the 24th of July, 1875. The Church of Saint Agatha in the city of B., administered by a single parish priest (who was called a "preposit"), from the year 1502. At the end of that year, Bartholomew, who at that time was the Preposit, petitioned the Supreme Pontiff Alexander VI, so that three other perpetual chaplaincies, with their revenues, might be established from his revenues, to a large extent, for the support of chaplains, who, together with the aforementioned Preposit and the then-current Rector of said Church, would be obliged to attend the canonical hours, to reside, to celebrate, and to exercise the care of souls. What Bartholomew had requested, he obtained, as can be seen in the Apostolic Letters, of which the following is the main part: "We command that you, or one of you, if it is so, establish in said Church, three other perpetual chaplaincies for three other perpetual chaplains, who, together with the aforementioned Bartholomew and the then-current Rector of said Church, shall attend the canonical hours in the same Church, and shall exercise the care of souls of the aforementioned parishioners, and shall personally reside in the same Church, and shall do so through themselves, and not through substitutes, provided there is no impediment."

[*Latin ed. p. 122*]

From the Sacred Congregation, "that they be obligated to serve legitimately, and to celebrate Mass each day in the same church, or through others, etc." It should not be omitted that in the year 1515, Bartholomew established certain regulations for the Chaplains, in which, among other things, it was prescribed: "That no one should impede himself in the care of souls of the entire parish, either in hearing confessions or in administering the other sacraments, nor should any priest dare to celebrate in the aforementioned church without the permission of the Lord Prefect or sacristan, under a penalty of ten gold coins for each offense committed against the aforementioned." "That the [Chaplains] diligently exercise the care of souls, until it pleases the Lord Prefect, and that each of them, in turn, should perform a week of service in said care, as circumstances require,

Translated by churchlatin.ai, a product of Boyne Archives

etc." It seems certain in fact that such Chaplains have always exercised the care of souls and administered the sacraments; and whenever questions arose between the Chaplains and the Prefect, the Prefect's authority always prevailed. However, in the year 1790, when the Prefect was disturbing the exercise of parochial rights, these [Chaplains] obtained a resolution from the Ordinary to settle the matter, by which "the aforementioned Reverend Curates are to be maintained in the free exercise of the administration of the Sacraments to the parishioners of said parish, and especially the Sacrament of Matrimony, as is customary." More recently, when the Prefect intended to revoke the delegations granted to the Chaplains to assist at marriages, some of the Chaplains protested. Finally, on February 18th, when one of the Chaplains, having been requested by the Prefect to celebrate a certain marriage, and the Prefect noted in the marriage register: "Let the Reverend Curate N. join in marriage DD. etc.," all the Chaplains, indignant at this manner of acting, presented a petition to the Ordinary, requesting the maintenance of their rights according to the provisions of Canon Law.

[*Latin ed. p. 123*]

The Episcopal Court rendered a judgment stating: "It is to be admitted that the vicars possess the right to administer the sacraments and to assist at the celebration of marriages, without the delegation of the Rector: provided that, in this coadjutorate, they remain subject to the Rector's prescriptions regarding the pastoral care of souls." Neither party acquiesced to this judgment; indeed, both appealed to the Metropolitan Court, which, exceeding the boundaries of its jurisdiction, resolved the controversy in a written decision, stating that the full rights of the parish, and especially the right to assist at marriages, equally and reciprocally pertain to both the titular Coadjutors and the Parish Rector. Seeing himself aggrieved by this decision, the Rector requested the Sacred Congregation of the Council to resolve the matter, both in the appeal and in the jurisdictional dispute, so that, after examining the foundation, it would be decided: "1. That the habitual curacy in the parish of Saint Agatha belongs to the Rector, and not to the vicars, along with him. 2. That the vicars cannot exercise the actual curacy independently of the Rector."

A summary of the arguments.

WHAT HAS BEEN NOTED CONCERNING THE RIGHTS OF THE VICARS.

It has been stated that the vicars' right has existed from the beginning, and from the foundation, and for almost three centuries by custom, and from several judgments rendered in their favor, which the Rectors have accepted. Regarding the foundation, the words in the Bull of Alexander VI are cited: "to exercise the care of souls together with the Reverend Rector,

Translated by churchlatin.ai, a product of Boyne Archives

and to no one shall any particle of the same be given, along with those to whom it refers, to establish equality." *Paris. Cons. 19, num. 21, lib. 3, Rota Decis. 216. Faventina 20 iunii 1564, Barbosa discep. 431, n. 1.* This equality, it is argued, rejects that subjection which...

[*Latin ed. p. 124*]

From the Sacred Congregation, the Council imposes upon Chaplains the obligation to administer the sacraments without the consent and delegation of the Rector. It does not follow from this that a general parochial right would arise. Indeed, it is necessary diligently to distinguish between the parochial right and the free exercise of the care of souls: and even with this distinction made, in practice, the parochial right does not belong to many in general; especially if it is demanded, or if some particular circumstance, or, as in the present case, a reasonable and legitimate cause exists. Pitonius, Constitutions and decisions for Parishes, No. 1404 and following, June 3, 1678, Sacred Congregation, in Tivoli, March 25 and July 9, 1757. From these documents, the following is added: and it is also the case that the tenor of the Bull was such that it required interpretation, and that in this case, no interpretation was lacking. From its foundation, that is, from the year 1502, until the year 1791, Chaplains exercised the care of souls continuously, without any delegation from the Rector: since no record of delegation exists in the parochial registers, as required by the Roman Ritual in the chapter entitled "Formula for writing in the book of Parishes": and as has been diligently observed in the Parish of Saint Agatha, whenever foreign priests have been called, or when these pastors have been admitted to marriages in another parish. Such silence indicates that no other interpretation of the Pontifical Bull can be given. The force of this argument increases when the very custom is considered: which, because it is a custom of a hundred years, derives the nature of a true and legitimate title, and supplements a title from a better source. Therefore, it can be concluded, as Cardinal DE LUCA, book VII, on alienations, section 3, number 6, says: "Only a custom of a hundred years (prescription) is sufficient, notwithstanding the modern Constitution of Urban VIII, because of 'the possibility of alleging any title from a better source.'"

[*Latin ed. p. 125*]

The rights of the parish priest are not merely a matter of interpretation, but a legitimate foundation, and indeed a true and complete prescription. Furthermore, the external fact must be considered in light of the internal reasons: namely, the judgment rendered by the Ordinary in the year 1791. All the objections raised have no effect, since the letters which the Prior customarily sends to the parish priests who acquire possession, warning them that they are obliged to assist the Rector in the care of souls, do not invalidate the rights derived from the Apostolic Bull. No prejudice can ever

Translated by churchlatin.ai, a product of Boyne Archives

be brought against the rights derived from the Apostolic Bull, in the error in which the Prior was regarding the value of that same Bull. The objections, however, which are drawn either from the constitutions which the Prior established in the year 1515, or from the acquiescence of some of the parish priests in the Prior's decrees, do not destroy the rights founded on observance, but rather confirm them. Much less can the right of the parish priest cease to exist, because the parish priests have not been burdened with the charge of maintaining the church and celebrating Mass for the people. For these things were to be held in some regard, when the Prior demonstrated that the parish priests had never exercised, nor could they exercise, parochial duties without the delegation of the Prior. FROM WHAT THE PRIOR, AS PATRON, PRESENTED. He claimed that he had confused the judgment of the Episcopal Court by confusing the possessory action with the petition, and in order to remove this confusion, he proposed separate proceedings for the possessory action and the petition. Beginning with the possessory action, he alleged that the oldest and most peculiar facts were being brought against him, in order to try to prevent the retention or recovery of possession. But such interdicts cannot be applied in this case, because they require either actual or not remote possession. The first judges also erred in this, insisting on the Episcopal decree of the year 1791, which had been in force for eighty years, without taking into account the custom that had been constantly observed for the past twenty-four years. Therefore, given that...

[*Latin ed. p. 126*]

From the Sacred Congregation of Councils, Decree 126, it is also established that, even if a property has been held for a long time, the Capellans cannot be prevented from retaining possession, nor can they be subjected to an interdict, especially when they have been hindered for twenty-four years. It is more detrimental to seek the recovery of possession through an interdict, which is not granted except in cases where the possession has been acquired by force, secretly, or precariously. Haimberger, on Roman law, private and pure, Book 3, Chapter 1, § 195. Furthermore, it should be noted that, in the case of possession, the intention of retaining the property for oneself is paramount; that is, to retain it in one's own name, not in the name of another. Haimberger, cited above, § 186. In matters concerning possession, the title must be examined: for if someone possesses as a lessee or as an administrator, they cannot be considered the true and civil possessor. However, the Capellans' title to possession is entirely based on the appointments made by the Prefect; once these appointments are accepted, they cannot, in the least, be revoked by him. Rota decrees, 216, corrected by Merlino. However, the Capellans have received nothing from the Prefect other than the office of assisting, at the discretion of the Rector himself; this excludes any equality between the Rector and the Capellans. Therefore, the

Translated by churchlatin.ai, a product of Boyne Archives

Capellans gain nothing from interdicts, whether for retaining or recovering possession. If they abandon the path of interdicts, they immediately fall under the jurisdiction of the secular court. And proceeding to the secular court, it is argued: For the Capellans to benefit from deductions, it must be assumed that the parish is not under the sole authority of the Rector, but is governed by four priests who exercise a joint ministry. However, law, custom, and the necessities of things vehemently condemn the division of authority within a state. Furthermore, Alexander III wrote to the Bishop of Janua that one church must belong to one priest. Chapter, As Questions, II, and Chapter, in which 7, question I, that several priests can be assigned to one church, but either to form a body of priests, or to have, in addition to the priests, those who serve as assistants.

1 Haimberger, cited above: "The intention in possession consists in this, that someone has the intention of retaining the thing for his own name, not for another's."

[*Latin ed. p. 127*]

Regarding parochial rights, number 127 should be considered. In the first instance, when a body is formed, not more than one truly acts in place of the rector, but only one: namely, the moral college as a single person. When the rector is absent, one rector exists, and the others exercise the care as vicars or assistants. In this latter hypothesis, when the exercise of authority is distinguished, it must be the case that one is dependent on and acts as an assistant to the other. *Rota Decis.* 39, N. 1, and following, part 15 *Recent.*. In fact, the matter has not deviated from common law. The prelate obtained the institution of chaplains from the Pope, with the offer of a share in the revenues. However, it is contrary to sound reason to presume that the prelate proposed the dismemberment of his benefice, and relinquished a part of its fruits; so that he might add to himself equals and rivals, and not vicars and subordinates. The Pope himself asserted the provision and collation of these chaplaincies by the prelate. From this, two consequences are derived. In the collation of chaplains, there cannot exist an authorized institution that cannot be committed by those who are inferior to the Bishop. *Text.* in Cap. 4, de Off. Archidiac. Moreover, if the right to confer is admitted by privilege, this must be exercised in the name of the Bishop. *Vicar.* Piton, *disc. eccl.* 20, num. 31, Barbosa de episc, *alleg.* 72, num. 186, and in each collation, mention is made of the vicariate power. Therefore, assistants to whom the prelate confers a benefice with ordinary authority, without any mention of a privilege, cannot be considered as parish priests. Furthermore, it is understood that when the right to confer is included among the higher and greater grades of jurisdiction, *Rigant. in reg. Cancell.* T. I, reg. 2, § 2, num. 9, it would be necessary for the collator and the elected to be of the same grade of dignity. Besides all of this, in the founding bull, the chaplains and the rector are constantly distinguished,

Translated by churchlatin.ai, a product of Boyne Archives

which distinction demonstrates that the care of souls pertains only to the rector.

[*Latin ed. p. 128*]

128 From the decrees of the Sacred Congregation of the Council, decision 489, paragraph S, number S, recently: It does not introduce a clause together with equality of ministry: since nothing prevents a servant from being with his lord, a soldier from being with his commander, and since this equality of office exists between these persons. And in this place, it further noted that this clause, which it also considered to be related to each individual operation and office (which it did not concede), creates a unity of fact, but not of jurisdiction. This unity of jurisdiction is also to be rejected, considering the order in the exercise of pastoral care; from which it is required that among many, there be someone who presides, lest in marriages and other more serious matters, it happen that, with each individual governing the same people in a different way, with one granting what the other denies, dissensions and uncertainties arise. The custom applied to chaplains in matters of possession is not supported, but rather to the Rector: who in the year 1515, in his constitutions, decreed that no one could engage in the care of souls without the Rector's license. Those after a century were obliged to admit that they were bound to assist the Reverend Rector himself... and thus it has always been observed. This was confirmed in the year 1622 by the vow of PAMPHILUS (who was soon elevated to the highest Senate of the Church and to the Chair of Peter), published before the Sacred Congregation: "that since chaplains are bound to exercise pastoral care until it pleases the Rector, the care itself is with the Rector, and not with the chaplains." Finally, it was stated that the judgment rendered in the year 1791 was only concerned with matters of possession, and did not harm the petitioner. In fact, the matter proceeded differently, and it is reported that in the year 1795, when the Rector instituted a judgment in the matter of the petitioner, the judgment itself was not completed, because one of the assistants with whom he was contending acknowledged the Rector's delegation. All of this is concluded by the constitutions of the year 1848, established by the Rector, concerning the order to be observed in the exercise of pastoral care, which have been observed to this day.

[*Latin ed. p. 129*]

Having expounded the arguments, the *summa* of which is presented here, the following *dubium* was submitted to the three Most Eminent [Cardinals] for resolution: Whether and how the judgment of the Curia should be confirmed or rejected in the matter concerning the Metropolitanate. In the assemblies of July 24, 1875, the Congregation [of Bishops and Regular Canons] decided that the judgments of the first and second *gradus* should be reformed, and that it is the right of the chaplains to

Translated by churchlatin.ai, a product of Boyne Archives

exercise the care of souls together with the Provost, and dependently upon him; that the ordination should be proposed by the Bishop, and transmitted to the Holy Congregation. From which, the following may be gathered:

I. In questions concerning the extension and distribution of parochial rights among several parties, the foundation and legitimate custom must be considered.

II. If a possessory judgment has been instituted, the ultimate state of affairs should prevail.

III. The collation of chaplaincies demonstrates the superiority of the collator.

IV. Although examples exist where parochial rights are held by several parties in solidum, these do not correspond to the institution of the Church, and have become obsolete, especially since the Council of Trent, for this reason in particular, so that questions concerning the validity of marriages may not arise.

V. The Holy Congregation has consistently followed this norm, provided that the laws and customs of the foundation do not explicitly oppose it.

VI. In the case in question, the Holy Congregation recognized the right of the chaplains to exercise the care of souls, but also their dependence on the Provost. The internal ordination was left to the judgment of the Bishop, whose is the ultimate state of affairs and who knows the needs of the people. *Acta*, volume IX, section XCIX, 9.

[*Latin ed. p. 130*]

From the Sacred Congregation, Decree concerning the Nullity of Marriages, No. 130, dated December 11, 1913. Summary of the Case. A young man, B., having been captivated by love for a young woman, F., of the same city, declared his sentiments to her, that is, he proposed marriage to her. He did not receive a refusal from her; and therefore, for several years, they indulged in mutual affection. In order that their intentions might not be disturbed by any doubt in the future, on January 3, 1869, both of them privately signed a document in which they promised to celebrate marriage between themselves. The young man, B., promised that he would fulfill his obligation once he obtained a public office (impiego), from which he could derive an income sufficient to live according to his social condition; which the young woman accepted. Indeed, the young man obtained what he desired; and therefore, through numerous and lengthy letters, he aroused the hope of marriage in the young woman. And the situation reached the point that the young woman sought the consent of her parents for the marriage; informing them of the public office she had obtained, and of the monthly salary assigned to her. Consequently, on May 30, 1870, she obtained a certificate of her freedom from the Episcopal Curia of C, and before the parish priest, she declared her consent to celebrate the marriage

Translated by churchlatin.ai, a product of Boyne Archives

with the young man. However, when the young woman perceived a long delay, and, in order to restore the house in which they were to live, she was impelled by a certain inconsiderate impulse, she wrote to her lover in June of the same year: "If you wish to abandon the project, you can do so, because I do not want to impose a sacrifice on you, and I am rather prepared to endure it." The young man did not take these words as seriously written; but rather, he understood them as a way to hasten the day of the marriage. And as the delay continued, the young woman wrote to him: "In order that I may not again fall into error, I say nothing to you regarding the time for the marriage, because the house, which we are to inhabit, is still somewhat damp."

[*Latin ed. p. 131*]

Dissolution of Betrothal 131. It was seen that the young man's affection had, in the meantime, cooled; and he brought forward the matter, alleging that he wished to postpone the marriage, and citing the distresses of his family affairs, in addition to the other reasons already mentioned. Meanwhile, the situation had reached a point where it was futile to attempt reconciliation; and the young man approached Bishop E. with a pleading letter, demanding that the betrothal entered into between himself and the young woman F. be declared dissolved. The young woman, upon learning of this, presented a letter to the Bishop, stating that she was content for the matter to be decided by him. The case was therefore brought before the Bishop, and after hearing the arguments presented by both parties on several occasions, in March of 1872, the Ordinary issued a judgment favorable to the young woman, and I informed the young man of this in the manner that is possible today. The young man, although warned, remained silent until December 4, 1873, when he filed a regular appeal with the Congregation [of Sacred Causes], seeking to have the adverse judgment overturned. When questioned about his judgment and his opinion, the Ordinary stated that the case had become a matter of settled law, and although he would be willing to discuss and debate its merits again, he believed that the betrothal still existed. However, since forced marriages often have a difficult outcome, he considered it appropriate to assign a dowry to the young woman as compensation. Synopsis of the Dispute. Everyone can see that there were two main issues to be addressed in this matter: one concerning the validity of the appeal; and the other concerning the principal cause [of the dispute]. 1. REGARDING THE VALIDITY OF THE APPEAL. It is an established principle of law that definitive judgments, which have not been appealed, become final and binding after ten days from their pronouncement, and therefore cannot be retracted or challenged afterward. This has been clearly decided in the Authority on Appeals, section 1. Regarding the validity of the appeal, see Volume VIII, page 606, in the case related there of the Office

Translated by churchlatin.ai, a product of Boyne Archives

of Funerals.

[*Latin ed. p. 132*]

132 From the Sacred Congregation of Councils and within which time periods; and from canon 2 of question 6, where, after the ancient custom of two or three days having been granted for appeal, it is decreed that all appeals can be presented within a space of ten days, counted from the recitation of the sentence by the judging magistrates, by those who are concerned. To this, the chapter between 13 and chapter 5 concerning consultation about sentences, and the re-examination, is added, in which the Pontiff is said to have spoken in the following manner: "Since, after the space of ten days, the sentence passes into the authority of the judged matter, he who, for the sake of an appeal, does not resort to it within that time, is denied the right to appeal, since, by this, it appears that he has submitted to the final judgment of the law. But it is to be understood that the ten days are counted from the recitation of the sentence, but if, after a long time, after the recitation of the sentence, he has remained silent, it is clear that he has deprived himself of the right to appeal and, therefore, cannot be heard any further. This has also been clearly demonstrated by the Ordinary in his informative letters. THINGS THAT SPEAK AGAINST THE VALIDITY OF THE APPEAL. On the other hand, it has been noted that this matter was not legally, that is, carried out before the Bishop with the proper form of judgment; but plainly, that is, according to the judicial rite, and with the form omitted. Therefore, it is not to be feared if an appeal was made within ten days from the recitation of the sentence; for such a time must be observed according to the strictness of the law, which was absent from the beginning, and therefore the interposed appeal must be maintained. THINGS THAT FAVOR THE YOUNG WOMAN REGARDING THE PRINCIPAL QUESTION. Having noted these things concerning the incidental question, we have come to the principal question, and it is clear that the young woman has presented the following in her favor. The principle (which cannot be questioned by anyone) is that the cause, namely, mutual consent of the parties, by which the marriage contract has validity, can also dissolve those same contracts. According to the saying: "Every thing is born through certain causes, and is dissolved through the same; and the law agrees."

[*Latin ed. p. 133*]

Dissolution of betrothals, N. 35, ff. de Regni. Iur. – therein: Nothing is more natural than for anything of a certain kind to be dissolved by the very means by which it was joined. Therefore, it is certain among Canonists that betrothals properly contracted, indeed even those made with oaths, can be dissolved by mutual consent. But in this matter, mutual consent must be discernible from both sides. From the girl's side, this can be easily

Translated by churchlatin.ai, a product of Boyne Archives

deduced from her writings. On March 23, 1871, forgetting that the delay in contracting marriage arose from a condition initially imposed, she yielded to doubts and suspicions. Therefore, she gave a letter to the young man, in which, among other things, she stated: "Even if you have promised, you are not bound; you are free, and you will be content, and you will be able to take another wife, who will make you happy and bring you a great dowry, as your brother has done." These words, he says, when carefully considered, sound like nothing other than: "The promise that you made to me has constrained you, but in fact, you are not bound by the marriage bond; therefore, such a promise should be set aside, and you will be able to take another wife." But the young man could not take another wife unless the girl had seriously relinquished her rights. Nor can this be considered a trivial act, or as threats for the future; for she knew that the girl's intention was to withdraw from the marriage, so that such words were repeated by her; therefore, in this way, she must be considered to have knowingly withdrawn from the marriage promise. It cannot be inferred that there were threats concerning a future time, because the girl herself considered the resolution of the promise to be present, with these words: "Certainly, now your parents are content, because they have followed their goal, that is, the abandonment of the marriage." The girl's consent to dissolve the marriage contract is evident from the young man's words to her: "If you abandon me," he wrote to her, "I will no longer be yours." From these words, it is clearly deduced that the young man had given his conditional consent regarding the resolution of the contract.

[*Latin ed. p. 134*]

134 From the Sacred Congregation of Councils, it cannot be clearly demonstrated from the account given in the letter that the young woman was abandoned. Therefore, it appears that the young man approached her and that her consent was given for such a resolution, provided that the condition imposed by the suitor was fulfilled by the young woman. REGARDING WHAT IS FAVORABLE TO THE YOUNG WOMAN WITH RESPECT TO THE MATTER AT HAND. However, it has been noted that the betrothal contract remains in full force. Indeed, the young man, having assumed the office of Communal Secretary, has sufficiently demonstrated that he has fulfilled the condition attached to the betrothal contract, and this is also evident from the letters sent to the young woman and her father, as well as from the fact that he sought consent from them to enter into marriage, and also from the act of consent given before the Parish Priest C., so that the marriage could finally be celebrated. Hence, having fulfilled the condition, her obligation is pure, according to the decree *leg. ii, § i, ff. qui potior, in pig. et in leg. 7, re contrah. empt.* – namely: "For once a condition exists, it is treated as if it had been stipulated at the time, without any condition, between the parties." Therefore, the young man

Translated by churchlatin.ai, a product of Boyne Archives

is undoubtedly bound by the obligation to fulfill it, lest he incur the fault of infidelity. And both natural law, civil law, and Canon Law command this, as stated in chapter 4, concerning agreements – namely: "It must be diligently ensured that those things which are promised are actually fulfilled." It could be objected here that such an obligation may have been dissolved by the mutual consent of the parties; and since nothing is more natural than for anything to be dissolved by the same means by which it was established, *leg. 35, ff. de regni. iur.* And every thing, for whatever reasons it arises, is dissolved by the same reasons. But these objections appear to be futile, because it cannot be verified in the matter at hand; for if, on the one hand, the young man affirmed, and on the other hand, the young woman denied that her consent had been given to be released from the imposed obligation. It is certainly true that in order to safely affirm that the consent of the young woman was given to dissolve the betrothal, it would be necessary...

[*Latin ed. p. 135*]

Regarding the dissolution of betrothals, 135: Just as the consent required to dissolve a betrothal must possess the same qualities as the consent that established it, so too the manner observed in granting must also be observed in revoking; and the act of dissolution is of the same nature as its construction. See Grat., Discept., for. cap. 168, n. 3. This appears to be established by law and reason, since, just as the contract is also dissolved according to the same rules by which it was established, so too a dissolution made by mutual consent includes a convention and an obligation, as stated by Schmalzgrueber in *Jus Eccles., universal*, p. I, vol. 2, no. 38, concerning compulsory dissolution. Therefore, since it is necessary for the true, serious, and mutual consent of both parties to intervene in order to establish a betrothal, as stated by Reifenst. de Spons. vol. 1, no. 5 and following, so too it is necessary that the true, serious, and mutual consent of both parties be present in order to dissolve it. But if the expressions of the young woman, taken from her letters, are subjected to a strict examination, it is impossible to extract from them a consent of such qualities. For it would never occur to anyone that a young woman, who had waited for so many years to enter into marriage, would have uttered such words with a serious and deliberate intention! And furthermore, that she would have bid farewell with equanimity to the young man whom she had loved so deeply for a long period of time! Therefore, as has been observed previously, it is to be considered that the words used by the young woman were intended to express her impatient spirit, who could not bear to wait any longer, and therefore were more likely spoken and written to express her feelings than to destroy the betrothal. The learned and astute Ordinary stated further in his report that there was no true, serious, deliberate, and mutual consent present in the matter to destroy the betrothal. To demonstrate this, he carefully analyzed

Translated by churchlatin.ai, a product of Boyne Archives

the young woman's words.

[*Latin ed. p. 136*]

From the 136 letters relating to the matter, presented to the Sacred Congregation from Amasium, it was deduced that expressions such as those used were not sufficient to constitute a marriage, but rather were impediments to its dissolution. After these, and other arguments were presented by both sides, the Most Eminent and Reverend Cardinals, considering their knowledge and expertise in Canon Law, proposed two questions to be clarified:

I. Whether the appeal is valid in this case, and if not, to what extent.

II. Whether the judgment of the Bishop F. should be upheld in this case.

RESOLUTION. The Sacred Congregation, having considered the matter, on December 11, 1875, judged as follows:

To the first question: Affirmative.

To the second question: With the proviso stated in the first.

FROM WHICH IT MAY BE GATHERED:

I. That judgments definitively pronounced and not appealed, lapse of ten days from their pronouncement, become res judicata [things adjudged].

II. That there was no place for an appeal in this matter, because a longer period than that granted by law had elapsed; therefore, the right to appeal was precluded.

III. That in order for a marriage to be lawfully dissolved by mutual consent, the same requirements must be present as were present in the mutual consent that constituted the marriage.

IV. That just as observance is required in granting [a dispensation], so too it must be observed in revoking [it], and the contract is governed by the same rules by which it is dissolved.

1. See Volume VIII, page 613, regarding the arguments presented there, and regarding their annotations.

[*Latin ed. p. 137*]

Annual Proceedings, 137. Therefore, when true consent is required for a marriage to be validly contracted, it must be given seriously, deliberately, and freely; likewise, the same conditions must be present when resolving such a marriage. V I. It has been demonstrated that the girl's consent, accompanied by these conditions, was not present in the matter of Karlova, and this was established with clear and irrefutable reasons. ANNUAL PROCEEDINGS. Session 21, Chapter 4, on Reform. April 24, 1875, and February 5, 1876. Summary of the case. In the year 1712, the land V was separated from the parish of St. Donatus, and the Church of St. Nicholas, located on

Translated by churchlatin.ai, a product of Boyne Archives

that land, was elevated to the status of a parish. The pastor of the parish of St. Donatus had previously granted six measures of grain annually to the pastor of St. Nicholas, until the year 1840, when a question arose regarding the provision of the grain. Hence, the Bishop's judgment, favorable to the girl, remains in full force; and the betrothed, having given their consent to each other, remain bound. Therefore, according to common law and the Council of Trent, it is within the Bishop's power to compel a person, without a legitimate reason, to enter into marriage, due to the injustice committed in this serious matter, under mortal sin. The reason for this is universal, because the Judge is bound, by duty, to compel everyone to render what is due to them, or what is owed to them by justice. Although even one who has simply promised is compelled to enter into marriage, the Church more diligently compels the one who has affirmed the betrothal by oath; because of the greater bond of religion attached (Sánchez, De matrim., book I, section 99, number 4). Whether the betrothal was made with an oath or not, the Judge can and must, after a canonical warning, use the censure of excommunication to compel the one who, without a legitimate reason, refuses to fulfill the obligations of the betrothal. But what should the Judge do when, after a public sentence of excommunication, he sees that the betrothed person remains obstinate? The Judge must remember (as Sánchez observes, De matrim., section 29, number 7) that the Church's coercion is used to elicit free consent, not to force anyone into marriage against their will. Therefore, the Church uses coercion not with severity, but with moderation, like medicine; and when applying excommunication, it intends that the reluctant person should turn away from sin, as stated in chapter Novit ille, de iudic (there): "No one of sound mind is unaware that it is our duty to correct any Christian for any mortal sin, and if that correction is rejected, through distribution..."

[*Latin ed. p. 138*]

138 From the records of the Sacred Congregation, it is stated that, with the approval of the Archbishop during the Visitation, an agreement was made with the Parish Priest: henceforth, the Parish Priest of Saint Nicholas was to provide either grain or five ducats. However, he who had religiously fulfilled this obligation ceased to do so in the year 1872; therefore, the Parish Priest of Saint Donatus brought a case before the Sacred Congregation, requesting that the aforementioned individual be restored to his office. When questioned about this matter, the Archbishop of Saint [city name] stated: the Parish Priest of Saint Nicholas ceased to fulfill his annual obligation because, upon examining the original document concerning the division [of property or responsibilities], it was found that nothing had been stipulated regarding the provision of grain. A summary of the arguments. THE CLAIMS OF THE PARISH PRIEST OF SAINT DONATUS. He maintained that he should prevail in both a

Translated by churchlatin.ai, a product of Boyne Archives

possessory and a petitionary action. He argued that he had the right to the property, as he had been paying the requested obligation from the year 1712 until the present, and therefore he was in peaceful possession of his rights. However, it was judged that this was the only issue to be considered in this case, because the matter concerned an ancient possession inherited from his predecessor along with the parish duties; the question at hand was not about recovering something, but about maintaining possession. In the petitionary action, he sought to have the decree of the Archbishop of Saint [city name] issued in 1840 during the Visitation upheld, which concerned "the enforcement of ecclesiastical obligations." Therefore, it is necessary that the Judge, even if not requested, should absolve those who are stubbornly refusing to fulfill their obligations. It might also be asked: Is it within the Judge's power to condemn a man who has stubbornly persisted in his refusal and who even expects to be absolved against his will, to provide a suitable dowry to the woman? If so, it seems that it should be paid as a penalty, because forcing someone to enter into marriage against their will, and in a certain way compelling them, would be contrary to the explicit statement in chapter 29 of the work "Gemma," where it states: "Since marriages must be free, and therefore such a stipulation, due to the imposition of a penalty, is rightly to be condemned: we command that if it is the case that... the ecclesiastical censure should compel the cessation of the aforementioned extortion."

[*Latin ed. p. 139*]

Annually, 139 stations, in general, were to provide [grain], but a dispute arose between the parishes regarding the quantity to be provided. Then, a formal agreement was made, containing all necessary stipulations, and confirmed by legitimate authority. Indeed, such an agreement, once properly executed, cannot be rescinded, according to L. Cum te 5 of the Code of Civil Procedure, and L. Uti 4 of the Code of Agreements. Moreover, it was such an agreement that could not even be revoked by a decree of the Prince, according to L. Causas 16 of the Code of Civil Procedure. Therefore, even if no prior right existed to demand such a provision, this agreement would still be valid. Nor would newly discovered documents be detrimental; indeed, the text explicitly states in L. sub praetextu 19 of the Code of Civil Procedure: "Under the pretext of a document discovered afterward, the right to rescind a transaction completed in good faith is not permitted." This is consistent with L. sub praetextu 29 of the same Code, which states: "Under the pretext of newly discovered evidence, the right to rescind a general transaction completed is prohibited." And to this, we must add the fact that the very parish priest of St. Nicholas, who is now claiming the provision is invalid, acknowledged the rights of the parish priest of St. Donatus with a document written in his own hand in the year 1872. In this document, the current parish priest of St. Nicholas first declares

Translated by churchlatin.ai, a product of Boyne Archives

himself to be a debtor to the parish priest of St. Donatus for an unpaid tax, then states that he will send a messenger to each parish to inform them of the contrary, and finally, reserves the rights for the current year's provision. No one can deny that, in legal proceedings, the confession of the opposing party is of great importance and cannot be challenged unless it is clearly demonstrated that the confessing party was possessed by a great and invincible error. But even if such arguments were to prevail, it would suffice to state that, even if the parish priest of St. Nicholas had some reason to favor him, that reason must nevertheless be considered preempted and nullified by prescription.

[*Latin ed. p. 140*]

140. Having seen that the General Council has not been observed, and therefore, the prescription is invalid due to the lack of frequent acts, a long period of time, and a just title. However, I have demonstrated frequent acts, because each year, the payment has been peacefully made, and this is confirmed even by the controversy of the year 1840, in which the dispute was not about the right to demand the payment, but about the quantity of the payment itself. As for the length of time, forty years is sufficient for the prescription of things, even immovable property belonging to the Church, with the exception of those belonging to the Roman Church: Chapter 4, Canon 6; Chapter 8, Canon 9; and Chapter "De Praescriptionibus." Indeed, from the year 1712 to our present time, one hundred sixty-three years are counted, which demonstrates a very long period of time for prescription. This long period of payment and the existence of a just title demonstrate: for it could not be understood how, from the time of the division, the parish priest of Saint Nicholas has constantly received [the payment], unless some title and obligation were admitted. But these things are not necessary, since a very long period of prescription provides a better title than any earthly one. On the contrary, nothing can be inferred from the decree of division of the year 1712 to the contrary: namely, that the people of V. were ordered to offer wax to the mother church each year; and furthermore, that the parish priest of Saint Donatus, Thomas Petroni, while he lived, should pay twelve scudi annually, and nothing was said or stipulated about an annual payment of grain. Indeed, he did not pay the twelve scudi annually, which, after the death of Parish Priest Petroni, should have ceased; but the grain, which was constantly paid each year, without anyone contradicting it. Therefore, it is improper to bring forward the decree of division to the contrary.

[*Latin ed. p. 141*]

Annual contributions of 141 ARGUMENTS OF THE PARISH OF SAINT NICHOLAS. He himself stated, concerning the division of the Church of Saint Nicholas from the Church of Saint Donatus, that a decree had been

Translated by churchlatin.ai, a product of Boyne Archives

established whereby the rights of both entities were formally defined. From the decree, it was understood that a double burden had been imposed upon the daughter church: one temporary, namely the payment of twelve scudi as long as the Parish Priest Petronius lived; the other perpetual, that is, the offering of one pound of wax annually on the feast of Saint Donatus. With these burdens excepted, all other goods, revenues, and emoluments of the Church of Saint Nicholas belonged to the Parish Priest of that same church. Therefore, the annual grain contribution which the Parish Priest of Saint Donatus claimed to be due to him, was also to be reconsidered. For if the contrary opinion were admitted, a threefold burden would have been imposed upon the daughter church; but this would not be in accordance with either law or fact. Addressing the demonstration of law, he presented what is found in Ferraris, in the words of the decree concerning the division, number 21. "In the division of a parish church, certain things must be reserved, or some recognition made to the mother church, for example, that a moderate annual census be paid to it, to be assessed at the discretion of the Bishop, or that a solemn Mass be celebrated in the newly erected church by the Rector of the mother church on the day of its titular saint, or that the curate, together with the parishioners of the new parish, once a year shall go to the mother church and offer wax." From this, he argued that it was customary for one or the other of these recognitions to be established in favor of the mother church, and not a threefold burden, and certainly not a heavy and immoderate one. Therefore, it must be held that either the Archbishop did not wish to impose a threefold contribution, or, even if he did wish to, he exceeded the limits of his power. This argument was confirmed by facts. It is known that after the division of the Church of V., the town of Oppido was also similarly divided from the same Saint Donatus. And although this separation, being subsequent, was more burdensome to the mother church.

[*Latin ed. p. 142*]

From the decree of the Council, a wound having been inflicted, only the offering of a single pound of candles was prescribed. Therefore, a different method of imposing burdens is excluded by the laws based on analogy. Indeed, a similar imposition of burdens was shown to have been made by the Church of St. Donati, which, always flourishing, did not require a substantial contribution from the dismembered church, whose revenues barely sufficed for the honest support of the parish priest. Since it was evident from these facts that in the actual act of dismemberment, no mention was made of the contribution of grain, it was necessary to determine whether those things which were introduced later could have altered the original law of dismemberment. However, there is nothing more solemn or ancient than the determination of the burdens of benefices according to the laws and instruments of the foundation: nor is it permissible for

Translated by churchlatin.ai, a product of Boyne Archives

Bishops, even during the Holy Visitation, to vary the laws of benefices in any way (Fagnan, in Cap. 24 and following, concerning non-resident clergy; Barbosa ad Conc. Trid., Session 25, Chapter 5, number 7; Garz, de benef par., 7, Chapter 1, number 12; Riccius in prax. Iur Eccl., par. 4, response 462, number 2; Monacali, Formul Tom. 2, title 15, ad form. 1, number 29; S. C. C. in Verulana, 12 September 1760, and in Reatina, 14 April 1832). Nor does a transaction made to the contrary, which occurred in the year 1840 between the two parish priests, have more weight. Indeed, it is clear from the decrees of Comaclen, 1 July 1818, and Mutinen, 23 November 1833, that the laws of the foundation cannot be altered by subsequent agreements of the parties. Therefore, such a question should not even be raised, as soon as the decree of dismemberment and the laws contained therein, which were completely ignored, are brought to light. Furthermore, prescription is excluded, both because the length of time required is lacking, which is attached to words written in a proper cause in the year 1817 by the parish priest of St. Donati, and also because a just title is lacking. Except for the actual act of dismemberment, no other title is equally valid.

[*Latin ed. p. 143*]

The annual payment of 143 cases is deemed to be just; however, the ignorance of the Parish Priest of St. Nicholas is lacking. For it is certainly to be held that, if the Parish Priest of St. Nicholas had known of the decree of dismemberment, he would never have made the payment of the grain. How much weight should be given to ignorance in such matters is explained in Reiffenst. 1 Decret., title 4, § 5, no. 25; and in the Sacred Congregation's rulings in Interamnen, August 14, 1824, and in Verulana Stalli, December 20, 1823, § Negant. "Customs arising from error have no validity, because the opinion of the erring has no force." With these arguments presented on both sides, the following question must be resolved:

Doubt: Does the right of St. Donatus exist in the case of the annual payment?

RESOLUTION: The Sacred Congregation, having knowledge of the matter, on April 24, 1875, decided: Affirmative. The benefit of a new hearing was requested by the Parish Priest of St. Nicholas, and after the case was presented again on February 5, 1875, a rescript was issued: In the decisions and further.

THEREFORE, THE FOLLOWING CAN BE INFERRED:

I. When a dispute arises concerning the possession of something, it is sufficient to demonstrate that the possession of the thing actually exists with the possessor.

II. A formal transaction, completed in good faith, cannot be rescinded by any agreement.

Translated by churchlatin.ai, a product of Boyne Archives

III. A transaction is upheld even if a document is later found, which, if it had been known beforehand, would certainly have prevented the transaction from taking place.

[*Latin ed. p. 144*]

144 From the Sacred Congregation of the Holy Council, JURIS SUFFRAGANDI. December 11, 1875. The Ordinary A. presented to the Congregation, on February 24 of the aforementioned year, the following: "This chapter of mine will be subject to the active patronage of the law, concerning two canonical benefices to be conferred through a vote among those who are proposed by means of ballots. Since the Canons have the active voice, and they seek to convert the aforementioned Canonicates, with their minds and counsel, into a better condition than the Canonicate enjoys today, and since some of the Chapter members have already proposed this very thing through the aforementioned ballots, the question arises as to whether, if he abstains from giving his vote when the vote concerns himself, he is also obligated to abstain as many times as others are subjected to the vote." Therefore, that all may proceed rightly and legitimately in accordance with the sacred Canons in this election, the Most Reverend Fathers are requested to deign to resolve this doubtful matter.

Synopsis of the Discussion.

E. A. – POINTS FAVORABLE TO THE RIGHT TO VOTE.

E. Firstly, it is observed that the solution to such a controversy could depend on the Capitular Constitutions, or on custom, or finally, on the disposition of common law. However, it cannot be derived from the Constitutions of the Chapter, since they appear to be silent on this matter. It is also useless to appeal to the observance of custom for two reasons: firstly, because only two examples could be adduced by the opponents; and secondly, because such observance appears to be contrary to the open disposition of the law, and therefore would be a transgression. See the decision in the case before Falconeri, 58, n. 15, and also the title on patronage.

[*Latin ed. p. 145*]

Regarding the right to vote, it is certain and accepted within the common law that, from the very moment that Canons acquire possession of their benefices, they have an intention founded in the law itself to vote in elections and other acts of the chapter. For, since they are, as it were, the lords of the fruits, consequently they are also the lords of the right to choose, which is within their fruits, according to the tradition found in the text in chapter Genesis, concerning elections, and also in the Gloss on the chapter "Concerning Praebendae" at the end, and in the chapter "Concerning Constitutions," and in the words "they received," and in the words

Translated by churchlatin.ai, a product of Boyne Archives

"beyond the number"; Fagnan in the chapter "Concerning Constitutions," number 9; Lotter in "Concerning Benefices," book 1, question 15, number 25; Barbosa in "Concerning Canons," chapter 37, number 1; and the Decree of the Congregation in the Senate, in the words "in the chapter" of February 27, 1708, and in the election of Pisa, September 29, 1818, § Furthermore. This general assistance of the law cannot be limited in this matter by prohibiting a Canon from presenting himself to vote for a vacant praebenda among his colleagues, as often as other candidates are subjected to the vote. Since this is not prohibited by any law, either special or general, it has therefore been deemed permissible; because in matters of prohibition, that which is not expressly prohibited is considered permitted, according to the disposition of the text in the law "Moreover." And the force of these words is derived from the reasons mentioned above; Gloss, in the chapter "From the Letters Concerning Patrimony," and in the chapter "Concerning Corporal Matters Concerning Translation of Bishops"; Lambertini in "Concerning Patrimony," book 2, question 3, article 12, number 10, verse. This question. However, there is no reason to believe that a Canon can be moved to give his vote more from his own affection than from justice, and therefore he should be excluded from the chapter elections; because in matters of public law, it is presumed that each person is moved more by the public good than by a private cause, as stated after the Gloss, in the chapter "That verse," and the reason for this law is explained by Piton in "Ecclesiastical Disputations," 137, number 12. Therefore, the Acts, volume IX, page CVII, number 10.

[*Latin ed. p. 146*]

146. From the Decree of the Council, according to the disposition of the law, the opinion of the Canonists, the father is not prohibited from presenting his son for a Benefice of Patronage, or from voting for him in the university to which the right of presentation belongs, as is stated after the Gloss, in chapter "Quia Cleric," word "filii," and in chapter 6, "Consuluit," word "propria auctoritate de iurepatr."; so hold Lambert, in the cited passage; Vivian, on Patronage, book 6, chapter 8, number 23; Piton, in the cited passage, number 16. Furthermore, according to Canon Law, in elections, it is not prohibited to give a vote for a brother, out of natural affection, as is stated by Lambert, in the cited passage, question 4, article 17, number 1; Pignat, cons. 53, number 6, volume 6; the Holy Congregation of the Council, in the document from Pisa, and likewise, one can vote for a Coadjutor in the Chapters, in favor of his Coadjutor, as is stated in the final chapter on Procurators, Garz, on Benefices, 4, chapter 5, number 105. Ventriglia, in "Praxi," page 2, note 13, § unico, number 60. Therefore, it seems more reasonable to say that the Canon is able to give a vote in the case under discussion, when other candidates for the canonry, to whom he himself was presented, are subject to voting. Indeed, we are dealing with external persons; we are dealing with a vote, which one must give

Translated by churchlatin.ai, a product of Boyne Archives

according to his conscience, and therefore, it should be presumed that he wishes to consider the good of the Church more than his private interest; especially if it is considered that the election does not depend on his vote, but on the capitular election, in which all Canons must elect with equal suffrage. This argument seems to gain greater strength if one considers that the Canon, who sees himself being elected and named by others, without any vice of ambition, can consent to his own election, by adding to the votes of others, and by increasing their number, according to the text in chapter "Cum in iure," and there: "Since you are an expert in law, and below: "The first article of your consultation contained that <(after the death of a Dean of a certain Church, the Chapter of that place had, in seven of its Canons, "compromised" that they would elect him whom all, either from themselves or from others of the same group, would equally, or the majority of them,

[*Latin ed. p. 147*]

1. Concerning the right to vote 147: (it is stated that, if a candidate is nominated, the same chapter should receive him as Dean. Therefore, since one of them was chosen by seven from among themselves, and another, who "was not among them," was chosen by three others to be nominated for the deanery, it was asked which of them should be accepted into the deanery. Regarding this, we respond as follows: that the one who was chosen by seven from among themselves, according to the terms of the agreement, ought to be accepted into the deanery, provided that he consents to the election made in his favor, and that no canonical impediment exists. Therefore, if the chapter cannot, in any way, be denied the power, presented by others, to vote in his favor, it would seem even more that the power to vote in the scrutiny for other candidates competing for the same benefice should not be denied.

THINGS THAT APPEAR TO CONFLICT WITH THE RIGHT TO VOTE. However, it has been observed that several points of reason have not been lacking against what has been stated thus far. Although no one can be deprived of the right to vote, which is proper to the canons, in common law, it must be understood that this right cannot be completely taken away from the canons, but rather can be restricted only in part, namely, that it can be limited by certain boundaries for a probable cause, or at least for a suspicion not disapproved by law, as Pitonio states in *Discept. Eccl.*, cited in *Rota in Hispalen*, *Iuris votandi*, June 26, 1591, before Orano, and decision 20, p. 3, no. 2, recent. For nothing prevents someone from being a member of the entire chapter, and yet, in certain cases, from not enjoying the chapter's voice, as Garcías de benef. teaches, p. 3, cap. 2, no. 372; Lauren. for. ben., vol. 1, quaest. 405, no. 4. Hence, it is rightly testified by Gavantus that the Sacred Congregation has decreed that canons should be required to withdraw from the chapter when their own interests are being discussed

Translated by churchlatin.ai, a product of Boyne Archives

therein. Let Scarfant be heard in book 4, title 4, no. 23: "Likewise, canons, concerning whose special interest is being discussed in the chapter, should withdraw from the chapter's place until the matter has been discussed, as it was."

[*Latin ed. p. 148*]

148 From the Sacred Congregation, "the decree from the Sacred Congregation, as testified by Gavanto." However, it appears from the matter itself that the issue concerns a special interest of a canon, who, although presented by his colleagues, desires, along with others, the vacant canonry. Therefore, he should be protected by the Chapter until the matter has been discussed, even with regard to other candidates, and consequently, should be excluded from voting. Both sound reason and numerous examples seem to suggest this. It is indeed unjust to judge in one's own case, hence the common saying: "No one is a judge in their own cause." But in the case under consideration, the canon, by participating in the scrutiny with his own vote, among others who are presented to him for the same canonry that he himself desires, must undoubtedly establish a comparison between himself and the others, and thus render judgment in his own cause, contrary to the provision of law 10, paragraphs, concerning jurisdiction, all judges. Therefore, he should be excluded from voting. Furthermore, examples are relevant. Indeed, if relatives and companions of the Bishop, and even the Vicar General himself, when the matter concerns Privas and the particular interest of the Bishop, must abstain from voting in the Chapter of the Sacred Congregation in Milan, January 1587, and in Pharen, Residence, April 28, 1674; the Rota in Hispalen, concerning the right to vote, February 4, 1697, before Caprara, the canon in the matter should be considered more strictly excluded from the right to cast votes, especially when it concerns the presentation of himself for an ecclesiastical benefice. It should also be noted that Saint Pius V, in his Constitution which begins "Quanta," forbade Bishops from conferring benefices to their relatives or close family members, who had resigned them, for it could easily happen that excessive affection, whether by blood or by familiarity, would give rise to fraud in such resignations, which would pave the way for the less just collation of benefices. Now, if this was established for those cases, how much more so...

[*Latin ed. p. 149*]

In the present controversy, it would be necessary to determine whether the right to vote (suffragium) should be exercised in such a way that, while the Canon already present concurs in excluding others and is present in the Chapter, he should refrain from voting, lest ambition give place to fraud and circumvention. Indeed, it would be most unjust if, by his vote, he could prevent a just judgment from being rendered among those presented; rather, by excluding others with his vote, he would increase his own

Translated by churchlatin.ai, a product of Boyne Archives

chances, and thus his presentation would seem to be carried out in some way contrary to the statutes of the Holy Canons, especially in the chapter concerning the right of patronage. All these considerations are evident; for it is known that, from the death of the founder until the present time, in the two vacancies that have occurred, some of the Chapter members, when a Canon is being chosen for the vacant Canonry, have either abstained from giving their vote, or have refrained from participating in the Chapter elections, even in the scrutiny of other candidates; a practice which, since it has been considered lawful, has been of great importance. Nothing has been omitted from the arguments presented from the chapter concerning elections. For the Doctors, as Pirhing testifies in *Ius Canon.*, book 1, title 6, § 3, number 181, state that the disposition of this chapter applies when the scrutiny is public, but not when the election is made by secret scrutiny. In the matter, the Rota, before Clement XIII, in the aforementioned place, number 9 and following, states: "It has not been considered contrary to the Doctors to say that the voice of the elected sometimes increases the number of those who choose; indeed, this occurs when the election is made by public acclamation or by some similar means, openly and by public votes; but otherwise, when the election is made by secret scrutiny." And so, in the first case, when a Chapter member sees himself being elected and nominated by others, because he is not called by himself, but by his colleagues, he can, without any fault of ambition, validly consent to his election, according to the disposition of the aforementioned text in the chapter concerning elections. Otherwise, in the second case, because then no one...

[*Latin ed. p. 150*]

150 From the Sacred Canons of the Council: "The prelate in his chapter can nominate and choose [a candidate]. For if he does not know whether the other capitulars agree with him, it would not be considered consent to the election of others, but rather a self-serving choice, and therefore his vote is not counted, as the Gloss teaches, in that chapter, Cuma." It was also wrongly considered that the resolution of the Sacred Congregation of Cardinals of the year 1649, concerning the case of Matheranen and Acerenza, and which was cited by Cardinal de Luca in discourse 26 on Canon Law, was invalid. In that discourse, it is declared that the election of a Capitular Vicar in the person elected, who received 17 votes out of 32, including his own vote, is valid. Firstly, because in that instance, a second scrutiny was being conducted, in which, as the aforementioned author teaches, he who sees himself elected, and who is nominated by others, can consent to his election without ambition. Secondly, because in that case, neither a true election nor a presentation for a benefice was being considered, but rather a simple deputation from those listed by the same author, loc. cit., under number 10. There: "But when proceeding to the second point, an equally

Translated by churchlatin.ai, a product of Boyne Archives

clear ambiguity is used in the terms of the text in chapter 'On Avarice, concerning presentations,' in the sixth [section]. Although the opinion of Geminus and Lambertini has been rejected, and the opinion of the Archdeacon and Franchi, and others, has been accepted, so that the aforementioned decree proceeds, not only in Prelacies, but also in lower benefices, according to decree 6 Crescent., on Parental Rights, decree 231, number 3, decree 184, number 2, page 10, and recently, with others, in Lotter, book 1, question 13, from number 1 to 13; nevertheless, this proceeds when it concerns an act that requires the authority of a superior for its perfection, as is the case with an election, which requires confirmation according to what is stated below in the discourse on Coadjutor Monasteries, and so forth. Or when it concerns a presentation or nomination for a benefice, from which a superior institution or provision is necessary, and all the authorities we have mentioned above speak in these terms. Otherwise, in this subject matter, in which neither a true election nor a presentation for a benefice is being considered..."

[*Latin ed. p. 151*]

Regarding the right to vote, 151: "By 'presentation,' it is meant a simple deputation of members to act on behalf of others, according to mandate." Having considered these points from both sides, the prudence and wisdom of the Cardinals determined that the following question should be answered: Is a Canon, presented by his colleagues to fill a vacant position, obligated to abstain from giving his vote, even when the vote concerns him personally, and must he abstain from voting in the Chapter as often as other members are subjected to voting in such a case?

RESOLUTION. The Congregation of the Holy Council, after due consideration, on December 11, 1875, decided: Affirmative.

THEREFORE, IT IS UNDERSTOOD:

I. That, according to common law, it is undoubtedly the case that Canons cannot be deprived of the right to give their votes, since this is proper to their office.

II. That, however, this must be understood in such a way that it is not permissible to completely deprive Canons of such a right; rather, it is permissible to restrict that right within certain limits for some reason not disapproved by law, and in some cases, Canons may even be unable to participate in the Chapter vote.

III. Therefore, it has been rightly decreed by the Holy Council that, in the case of Canons concerning whose special matter is being discussed, they should withdraw from the Chapter assembly until the matter has been discussed.

IV. It seems clear that the matter at hand concerns a particular interest

Translated by churchlatin.ai, a product of Boyne Archives

of the Canon; because, when presented to fill a vacant position, he desires to be considered along with the other candidates.

V. Furthermore, analogous examples are found in canonical jurisprudence, and these seem to confirm the assertion, and it appears to be a just principle that no one should act as a judge in their own cause.

[*Latin ed. p. 152*]

From Section 152, Chapters on Bishops and Regular Canons, IV. It also appears that this cannot be verified in the matter at hand; since a Canon, by his own vote in the scrutiny, concurring with another (who have been presented to offer themselves for the same office), establishes a comparison between himself and the others, and forms a judgment.

VII. From canonical jurisprudence, among other examples, it can be gathered that relatives, companions, and the General Vicar of a Bishop ought to abstain from voting in a matter which pertains to the particular interest of the same Bishop.

VIII. Likewise, from the Constitution *Quanta*, of Pope Pius V, Ordinaries are not permitted to confer benefits upon their relatives and those closely connected to them, lest blood or family affection provide a cause for a less just bestowal.

IX. Therefore, it seems canonical to be able to cast votes in a public election, because, being nominated by others, one can accede to his own election without fault of ambition.

X. This, however, ought to be denied to him in a secret election: because, since he is unaware whether other Canons are concurring in the matter, it would appear, or rather, he would be choosing himself ambitiously, rather than consenting to the election of others.

FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS, EXEMPTION.

February 4, 1876. Summary of the case. A conservatory exists in a certain noble city of Etruria, which is open for the education of young girls from the most prominent families. Such an institute is managed by women who are Oblates, who, although they wear a religious habit, are not bound by the strict rules of a religious order.

[*Latin ed. p. 153*]

Exemption from the 153rd canon, nor from the solemn profession of vows. In the year 1829, with the aid and generosity of the Most Serene Prince, such a building was constructed in the monastery where the daughters of Saint Benedict formerly resided. The administrators immediately obtained a regulation, drawn up according to a certain civil law; this law (to which it is unknown whether Apostolic confirmation has been added)

Translated by churchlatin.ai, a product of Boyne Archives

granted to such institutions many privileges concerning the enclosure of monasteries. The Ordinary has no jurisdiction over the religious community, except for the granting of a confessor every three years. A layperson, appointed by civil authority, has charge of the almshouse. Between the confessor and the parish priest of Saint Catherine, within whose parish boundaries this pious institution is located, a strong dispute arose regarding parochial rights. The question arose as follows: The confessor, bearing a resentful spirit because the parish priest had, for a long period of time, resided in the almshouse and administered the waters of salvation, and in the greater week, gave the blessed water, wished to prevent this by entering the inner part of the same pious institution. Therefore, he ordered the administrators not to open the door to the priest who was about to give the blessed water, and this was done. Foreseeing the scandals that would arise, the Ordinary urgently requested a resolution of this matter from the Sacred Congregation for Extraordinary Affairs. A concise summary of the arguments. WHAT THE CONFESSOR PRESENTED IN HIS FAVOR. The confessor, defending his rights over the institutions, argued that the authority of the parish priest should be excluded because he was outside, having been appointed by the Prince and being under his protection, according to the Tridentine Council, Session 22, chapter 8, on Reform. Furthermore, the bishops, as delegates of the Apostolic See, in cases granted by law concerning all pious institutions, whether in the last will or during life, are executors: they have the right to visit hospitals, colleges, and any confraternities of laypeople, including schools, or whatever else.

[*Latin ed. p. 154*]

154. From the Sacred Congregation of Bishops and Regular Canons, it is called a "Conservatory," but it must not be confused with other institutions of a purely secular nature, which are under the direct authority of the King. Rather, it must be considered equal to other Conservatories, in which the oil of the infirm is kept, and in which the Parish Priest is the only ordinary Confessor, according to Ferraris, *V. Monialis*, art. l, n. 61: "For the Confessor of the nuns, although he is not called a parish priest, since he has the care of souls by his office, just as if he were a parish priest, with respect to the laity." Furthermore, since a Confessor is assigned to this religious family for three years, just as is done in monasteries of strict enclosure, it follows that the Confessor should, for the time being, be considered the parish priest of that Conservatory, as happens in the monasteries of professed nuns. He attempted to support this argument with general rules that govern Conservatories in Etruria. It was established in a certain law that only the Confessor should be considered the parish priest of the Conservatory, who on feast days and Sundays would give an explanation of the Holy Gospel and, after dinner, catechism; to which all should be present. He says that these things cannot be denied to have been

Translated by churchlatin.ai, a product of Boyne Archives

established by civil law; however, it seems that an apostolic sanction has been added to this law by the actions of the Supreme Pontiffs Pius VIII and Gregory XVI. For they did not say anything contrary to the law when, with appropriate briefs, they granted to that Conservatory a perpetual Confessor. He concluded that this law is not arbitrary, because it was common to all Conservatories in that region. And he sought to prove this with the testimony of men of worthy faith. To omit the rest, the General Vicar of the Archdiocese, when asked for his opinion regarding two Conservatories of the same kind that exist there, replied that he had always considered the Confessor in all Conservatories to have the jurisdiction of a parish priest, except for marriages and funerals, according to the custom of Etruria. Furthermore, they are under the protection of...

[*Latin ed. p. 155*]

Regarding Exemption 155, the Confessor stated that the Parish Priest of Cento had improperly fulfilled two functions that are strictly parochial, namely, the care of souls and the blessing of water. Furthermore, he presented a custom of the locality in his favor; and that all his predecessors had fulfilled these parochial functions. The Confessor explains that he teaches Catechism and the Gospel in the Conservatorio, admits girls for their First Communion, administers the Sacraments of Confession, Communion, and Holy Oils, and attends to the dying. He also exercises his office in the public Church, where the vessel of Holy Chrism is kept, which is received directly from the Cathedral Church. From this, he concluded that the sprinkling of blessed water and the care of souls are either not to be considered among the parochial functions, or that he has the right to perform them; and that, since he fulfills other parochial functions, he contains more than he lacks, according to the saying "plus in se continet quod est minus." To weaken the opposing custom, he explained that it originated when the Vice-Parish Priest of Cento, in the year 1818, was also the Confessor of the Conservatorio. From that time, since the confessors were often also dignitaries of the Cathedral, they left the Parish Priest with serious functions, such as blessing numerous rooms and writing the names of one hundred girls in the parochial records. However, this does not invalidate the law. Furthermore, he considered that certain rights that the Parish Priest still exercises do not harm him, such as the right to make announcements and to perform funerals; for the former, he observed that the girls are dismissed immediately after the betrothal; and for the latter, he stated that the Parish Priest only has the right to receive corpses before the door of the Church, and he cannot enter the Church itself in his parochial vestments. Finally, the Confessor refuted the arguments of the Conservatorio.

[*Latin ed. p. 156*]

156 From the Sacred Congregation of Bishops and Regular Canons, it is

Translated by churchlatin.ai, a product of Boyne Archives

entirely necessary to equate such institutions with monasteries in which solemn vows are observed with enclosure. WHAT THE PAROCHIAL PRIEST PRESENTED IN HIS DEFENSE. The parish priest, on the contrary, defended himself, claiming that within the conservatory, he possessed complete parochial jurisdiction; and that this jurisdiction extended within the limits of his parish. He stated that it was a well-known principle of canon law that the parish priest had certain jurisdiction, and that he held his own parochial rights over all those living within the boundaries of his parish. Decree, cap. i. *Fraternitatem, de Sepult.* Clementine; *Dudum § Verum eod. tit.*; Barbosa *de officio Parochi* par. 3, cap. 26, n. 66. This jurisdiction of the parish priest can only cease in certain cases, or if some institution, either by its very nature, or by a special privilege of exemption, or by ancient custom, is excluded from it; but all such cases must be clearly demonstrated. However, such an exemption has been granted only for the benefit of the monastic Orders by Gregory the Great, and has been so regulated by him that the monastic orders are not entirely removed from the authority of the bishops. Berardi, *Commentaria in Ius Eccl. univ.*, cap. V, *de auctoritate Episcoporum in Monachos aliosque Regulares*: "It was Gregory the Great who, in his youth, embraced the monastic life, who first began to restrict the jurisdiction of the bishops in monasteries to a great extent, not by excluding them entirely from it, but only by taking care that the bishops did not exercise their power in such a way as to disturb the solitary life of the monks. Since some bishops frequently visited monasteries, which were mostly located outside cities and in the forests, to celebrate the sacred rites there, often with a large gathering of clergy and people, thereby distracting the monks from their quiet prayers, he prudently decreed that the sacred rites should not be celebrated by bishops among the monks, can. 3, 5, 6, caus. 18, qu. 2." With the passage of time, this same exemption, not only received confirmation, but also expansion, as is evident from the Council of Trent.

[*Latin ed. p. 157*]

From the Session 24, chapter XI, concerning the reform, the strict enclosure of the Orders, which also profess three solemn vows, and which have been approved by the Apostolic See, as Gonzalez teaches in chapter XI, concerning religious houses with regard to the protection of parochial rights: "It was decreed that monasteries should not be built in such a way as to prejudice the parochial rights," and "that no new monasteries should be built, nor should old ones be transferred, without the license of the Roman Pontiff." The Navarran Consultation 6, concerning the Regulars, shows, according to the theories of the Canonists, that those who are strictly regular cannot be considered as such, so that, by reason of their status, they can enjoy an exemption; there it says: "But it is the law that there is no true monastic or canonical life, unless those who have emitted the three sub-

Translated by churchlatin.ai, a product of Boyne Archives

stantial vows in some religious order approved by the Holy See, and who are in the hands of a superior who has the power to do so." However, there are many Oblates in monasteries who do not emit these three vows, and consequently, some women are Oblates, and others are Monks. From the cited Author, it is more fitting to gather that there is a difference between the names, whether monks or Oblates, by attending to the observance of the aforementioned requirements; so that, if one or the other is lacking, the exemption ceases, and the ordinary jurisdiction of the Bishop, and also the parochial jurisdiction, is introduced. Berardi, indeed, teaches, cited in the aforementioned chapter, that a strict interpretation must be given to the Tridentine Council concerning such exemptions. In the Council of Trent, that interpretation should be adopted which easily favors the Bishops, because of the easy return of each thing to its principles. The Sacred Congregation in England, on January 25, 1874, §, limited the exemption of Oblates in this way: "These concern the exemption of Oblates from the lay judge, but with regard to their exemption from the jurisdiction of the Diocese, the disposition of the Holy Council of Trent, Session 24, chapter 11, concerning the Reform, must be considered, and if it is the case that something is lacking in the Oblates from the aforementioned requirements, or..."

[*Latin ed. p. 158*]

158 From the Decree of the Council of Trent concerning Bishops and Regular Canons, all requirements are present. If any of the required elements are lacking, the oblates do not acquire the privileges of a religious institute, and therefore are not exempt from the jurisdiction of the Ordinary, etc. From these considerations, it follows that the Conservatories, to which we are referring, cannot enjoy the exemption that belongs to regular institutes. For those Conservatories derive their origin, protection, and administration solely from civil authority; and it is not established that they have received Apostolic approval to the effect of exempting them from ecclesiastical jurisdiction. Indeed, all of the aforementioned requirements are lacking in them. It is known that these oblates are not bound by the three religious vows, namely, chastity, poverty, and obedience, so that their status is closer to that of the laity than to that of monks; moreover, if they wished to enter into marriage, they could do so even without a dispensation. Furthermore, even if they did not wish to take simple and temporary vows, or perpetual and solemn vows, these vows would be useless, because the enclosure is lacking. Although it may be said that enclosure is not necessary for a religious profession, nevertheless, it is imposed by the Holy Canons as a condition without which it cannot exist; Boniface VIII, chapter 1, De statu Regul., paragraph 6, in his constitution *Periculoso*, cited in the Tridentine Session 25, chapter concerning Regular Canons. It also seems superfluous to add that without enclosure, the vows themselves cannot be solemn, which virtually presuppose it. Ferraris, *Moniales*, arti-

Translated by churchlatin.ai, a product of Boyne Archives

cle I, number 6: "Although enclosure is not formally contained in the rule of any monastic order, it is nevertheless virtually contained in the three vows; Holy Congregation of Bishops, in Zamoren, February 7, 1592, and especially under the vow of obedience." Those nuns who profess under the condition that they are not bound by enclosure are not true professed, because Saint Pius V, in his Constitution beginning with the words *Circa pastoralis officii*, declares such professions to be invalid. Therefore, if these oblates can leave the Conservatories without the permission of ecclesiastical authority, it follows that...

[*Latin ed. p. 159*]

A layperson and anyone else can enter the Exemption [area], but it must be understood that an institution of this kind does not possess the nature or character of a religious family, so that it can enjoy an exemption, which is granted to monastic Orders, who fulfill all the requirements prescribed by the sacred canons. However, this does not apply to the religious family, of which we are speaking, by its very condition, nor can it apply by virtue of a privilege; since it cannot be shown that any Apostolic Brief grants this. Nor is it useful to say that the Conservators can enjoy this through an extension of the privileges granted to other pious institutions of the same kind: for privileges are strictly interpreted, and are granted specifically. Bizzarri, in his *Collectanea*, page 478, in a note, points out that, in matters related to this, privileges are rarely granted by analogy or by communication: because it often happens that privileges which are useful to one institution are communicated to others, but this does not necessarily benefit them, given the particular circumstances. Moreover, it is not useful to invoke custom or prescription against the rights of the parish priest, which are founded in canonical jurisprudence. And, setting aside other matters, it is certain that the parish priest of St. Catherine has, for fifty years, fulfilled two parochial functions within the interior of the Institute. This fact alone is sufficient to interrupt any custom, even one of a hundred years, and indeed, an unforgettable one; which should be so clear and peaceful that nothing has ever been done, seen, or heard in opposition to it. Indeed, to destroy it, a single act, even the smallest, and a rumor to the contrary are sufficient (Constantin. Vota Decis. 352, n. 18, etc.). Nor can it be usefully proven that the blessing of houses on Holy Saturday, and the compilation of the status of souls, do not pertain to the parish priest; for this would be contrary to the opinion of the canonists, whose most important collection on practice gathers Monac. Form. prot. legale, vol. X, formula 18, n. 4, p. 299, where the following is stated:

[*Latin ed. p. 160*]

160. From the Sacred Congregation of Bishops and Regulars, the functions presently pertaining to parish priests, and those which are exercised

Translated by churchlatin.ai, a product of Boyne Archives

in a limited manner, are reduced to the following: Firstly, to funerals; Sacred Congregation of Rites, at Pignatello, Consultation 73, number 110, volume 8. Sacred Congregation of Councils, in Ebrodunen, June 25, 1695. Secondly, to the blessing of houses on Holy Saturday; Barbosa, *De Parochis*, etc. Thirdly, to the collection of tithes, chapter "Cum contingat," chapter "Quoniam nobis, de Decim." Fourthly, to the administration of the Sacrament of the Eucharist during the Paschal season, chapter "Omnis utriusque Sexus, de poenit. et remiss."; and also to the Canon of the Cathedral Church during times of infirmity. Sacred Congregation of Councils, in Narnien, September 26, 1699. Fifthly, to the retention of the key of the tabernacle, and of things pertaining to it, chapter 1, *De Custodia Euch.* Sixthly, to the blessing of brides and of the bodies of the deceased, before they are removed from the house; Cesana, *Opera Moralia*, volume 2, and *Verb. Benedictio*, number 18. Seventhly, to the publication of marriages, excommunications, and indulgences. Sacred Congregation of Bishops, in Fermo, July 3, 1615, in response to point 8. From this, it is permissible to conclude that the blessing of houses pertains properly to the parish priest, and that implicitly, the spiritual care of souls is the duty of the parish priest, so that he may know whether the faithful entrusted to him have fulfilled the Paschal precept, or not. Therefore, it is granted that the parish priest of Saint Catherine has exercised two functions, as we have indicated; and it is clear that other aspects of parochial jurisdiction are also proper to him. This is not otherwise, because to him is left the fourth function, namely, that of funerals, because in this way he is recognized as the true and proper parish priest of the deceased, even with regard to other parochial rights. With these things established, it can be concluded that the rights of the parish priest of Saint Catherine are secure; because the *Conservatorium* neither by its nature, nor by any Apostolic indulgence, is exempt. Therefore, everything pertains to him, and certainly not to the Confessor, lest the parochial jurisdiction suffer diminution.

[*Latin ed. p. 161*]

161. The exemptions, as the Sacred Canons clearly indicate. Decree, Canon 1, cause 13. We decree that each [entity] shall have its own proper rights, namely, so that no one shall invade the boundaries or rights of another parish, but each shall remain within its own boundaries. Having stated these things, and others for both parties, the following questions were to be resolved: I. Do the Oblate Sisters of Saint Catherine participate in all the privileges of nuns in cloister and those arising from solemn vows in this case? II. Can the custom of performing the census of souls and giving blessed water in the Institute on the occasion of Easter be considered an abuse, and to what extent can such a custom be eliminated, with the favor of the Parish Priest of Saint Catherine, in this case?

RESOLUTION. The Sacred Congregation of Bishops and Regulars, after

Translated by churchlatin.ai, a product of Boyne Archives

due consideration, on February 4, 1870, decided: Regarding the first question, negatively. Regarding the second question, nothing is to be changed.

THEREFORE, WE GATHER THE FOLLOWING: I. According to the jurisprudence of the Sacred Canons, the parish priest possesses, by common law, a certain jurisdiction and proper rights over all those who reside within the boundaries of his parish. II. The jurisdiction of the parish priest is exempted for the Religious Orders by a privilege granted to them by the Sacred Canons. III. However, not all Orders enjoy this privilege indiscriminately; but only those who profess the three solemn vows, are bound by enclosure, and have obtained approval from the Holy Apostolic See. IV. Therefore, if one or the other of these requirements is lacking, the exemption does not exist, according to the strict interpretation of the Council of Trent, which must be followed in this matter; as stated in the Acts, volume IX, page CVII, 11.

[*Latin ed. p. 162*]

I. That both Pastors and Bishops may return to their principles, and that both may fully obtain jurisdiction over all their subjects. II. A Religious family can possess the privilege of exemption either by its very nature, or by a special privilege obtained from the Holy Apostolic See, or by a venerable and well-established custom. III. Oblates, concerning whom we spoke above, do not seem to be able to enjoy the privilege of exemption; because they lack all the requirements: they do not make solemn vows, they are not bound by enclosure, nor is there Apostolic approval intervening. IV. Regarding the two functions which the Pastor exercised in the Conservatorio, it appears that he preserved his entire parochial jurisdiction; just as someone is recognized as the Pastor of the deceased, even with regard to parochial rights, when the fourth part of the funeral expenses is left to him.

I. Since authority is always to be venerated; therefore, with a willing heart, we declare that the Most Holy Congregation of the Eastern and Regular Churches does not consider the doctrine presented by us in the deductions and notes on pages 53, 55, and 56 of this Volume IX (for the moderators of the Ephemerides).

FROM THE SACRED CONGREGATION OF THE INDEX: DECREE. Tuesday, March 6, 1876. The Sacred Congregation of the Most Eminent and Reverend Cardinals of the Holy Roman Church, by the Most Holy Lord Pope Pius IX and the Holy Apostolic See, concerning the Index of books of corrupt doctrine, declares: A Religious family can be considered exempt from parochial jurisdiction by its very nature if it is subject to Religious Orders of men, and if it lives under the same rule as those who enjoy such a privilege. It is certain that the aforementioned family can also enjoy this

Translated by churchlatin.ai, a product of Boyne Archives

exemption due to the communication of privileges.

[*Latin ed. p. 163*]

The Decree 163, concerning the condemnation, expurgation, and permission within the entire Christian Republic, issued by the superiors and delegates, held in the apostolic palace at Vaticanae on March 6, 1876, condemns and condemns, proscribes and proscribes, or orders that the following works be referred to the Index of Prohibited Books, and so it orders:

* *Le Concile du Vatican, son histoire et ses conséquences politiques et religieuses*, by E. DE PRESSENSÉ. - Paris, 1872. This work is condemned according to Rule II of the Tridentine Index.

* *La Genèse de l'humanité*, by Louis JACOLLIOT. - Paris, 1875.

* *O Brazil mystiftcando na questâo religiosa. Latine: Brasilia in religiosa quaestione illusa.* - Rio de Janeiro, 1875.

* *Der Cölibatszwang und dessen Aufhebung gewürdigt von Dr. J O H . FRIEDRICH von SCHULTE. Latine: De coelibatu coacto et eius abrogatione, disceptatio; Auctore D. IOANNE FRIDERICO DE SCHULTE.* - Bonnae, 1876. This work is condemned according to Rule II of the Tridentine Index.

* *Der Mechanismus der vatikanischen Religion, von Dr. F. FRIEDRICH. Zweite Auflage. Latine: Mechanisma religionis Vaticanae: Auctore D. F. FRIEDRICH. 2 editio.* - Bonnae, 1876.

* *Dei doveri della donna. Pensieri di ADALGISA COSTA di Milano.* - Roma, Cotta e compagno. Tipografia del Senato del Regno. - Decree of the Holy Office, dated February 16, 1876. The author of the work, entitled *Vanima Santissima di Gesù Cristo mostrata nella sua vera origine e grandezza. Contemplazioni dedicate agli amanti della medesima*, by GIOVANNI BATTISTA PRITONI (Minor Observant, also called Father Pio from Bologna), is prohibited. Decree of December 6, 1875, whereby he commendably submitted and disapproved of the work.

Therefore, no one of any rank or condition, wherever they may be, shall possess the aforementioned condemned and proscribed works.

[*Latin ed. p. 164*]

From the Index [of Prohibited Books], number 164, and in whatever language, let no one dare to publish, or, having published, to read or retain it, but let it be handed over to the Ordinaries of the places, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of prohibited books. These matters, having been reported to me, the undersigned, by the Most Holy D. N. PIUS IX, His Holiness approved the Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome, on the 7th of March, 1876. ANTONIUS Cardinal D E LUCA, Prefect. HIERONYMUS PIUS SACCHERI, Ordinary of the Sacred Congregation of

Translated by churchlatin.ai, a product of Boyne Archives

the Secret. L. © S. On the 10th of March, 1876, I, the undersigned, Master [of the] Curia, testify that the aforementioned Decree was affixed and published in the City. Philippus Ossani, Master of the Curia.

FROM THE THIRD CONGREGATION OF THE MOST HOLY RITUALS, RIPANA. Concerning the Beatification and Canonization of the Venerable Servant of God, Brother Simon Philippovich, Priest, of the Order of Friars Minor of the Observance of Saint Francis.

DECREE.

In the presence of the Reverend Father, Brother Bernardino a Cryptis Castri, Priest, Professed, and General Postulator of the Causes of Beatification and Canonization of the Servants of God of the Order of Friars Minor of the Observance of Saint Francis, the Most Eminent and Reverend D. Card. Thomas Martinelli, Promoter of the Cause of Beatification and Canonization of the Venerable Servant of God, Simon Philippovich.

[*Latin ed. p. 165*]

Decree 165 of the aforementioned [collection], the following question was proposed at the Ordinary Sessions of the Sacred Rites Congregation, held today in the Vatican: Whether the judgment rendered by the Most Reverend Bishop of Ripa concerning the aforementioned cult of the Venerable Servant of God, or concerning the conformity of said judgment with the decrees of His Holiness Urban VIII, should be confirmed in the case and to the effect of which it is spoken? Furthermore, after careful consideration by the Most Reverend Fathers entrusted with the safeguarding of the sacred rites, and after hearing the voice and the written statement of the Reverend Father Lawrence Salvati, Promoter of the Holy Faith, they judged it fitting to respond: It is sufficiently established that the judgment conforms to the decrees of His Holiness Urban VIII. On January 22, 1876. Subsequently, the aforementioned matters were faithfully reported to the Most Holy Pope Pius IX by the undersigned Secretary of the Sacred Congregation for Sacred Rites, and His Holiness deigned to consider the Rescript of the Sacred Congregation in all respects as valid and confirmed. On the 27th day of the same month and year. C. Card. Patrizi, Bishop of Ostia and Velletri, Prefect of the Sacred Rites Congregation. L-©S. Placidus Ralli, Secretary of the Sacred Rites Congregation. DECREE. OF NAPLES. Concerning the Beatification and Canonization of the Venerable Servant of God, January Maria Sarnelli, Priest, of the Congregation of the Most Holy Redeemer. In the presence of the Most Reverend Father Brictio Queloz, General Procurator of the Congregation of the Most Holy Redeemer and Postulator of this Cause, the Eminent and Reverend Cardinal Aloisius Bilio, Promoter of the Cause, proposed the following question at the Ordinary Sessions of the Sacred Rites Congregation, held today in the Vatican: Whether the judgment of the Judge, delegated by the Eminent and Reverend Cardinal

Translated by churchlatin.ai, a product of Boyne Archives

Archbishop of Naples, concerning...

[*Latin ed. p. 166*]

166. From the Sacred Congregation of Rites, concerning the cult of the Venerable Servant of God, it is never exhibited, or concerning the publication of Decrees, it has been determined by His Holiness Pope Urban VIII that in the case and for the effect of which we are speaking, it must be confirmed. Furthermore, the Eminent and Reverend Fathers entrusted with the preservation of the sacred rites, having carefully considered all matters, and having heard the voice and the written statement of the Reverend Father Lawrence Salvati, Promoter of the Holy Faith, have decided to respond: "Affirmatively, that is, the sentence is to be confirmed." January 22, 1876. Subsequently, these matters were faithfully reported to the Most Holy Lord Pope Pius IX by the undersigned Secretary of the Sacred Congregation of Rites, and His Holiness deigned to declare the Rescript of the Sacred Congregation to be ratified and confirmed in all respects. January 27, of the same month and year. Cardinal Patrizi, Bishop of Ostia and Velletri, Prefect of the Sacred Congregation of Rites. Reverend Father Placidus Ralli, Secretary. Joseph Ciccolini, Substitute. NEAPLES. Concerning the Beatification and Canonization of the Venerable Servant of God, Francis Xavier Mary Bianchi, Priest, belonging to the Congregation of Clerics Regular of Saint Paul in Barnabas. Since it was necessary in the Ordinary Congregation of the Sacred Rites to deliberate on the validity of the process conducted in the Ecclesiastical Court of Naples concerning the miracle which was attributed by the Most High God to the intercession of the aforementioned Venerable Servant of God, Francis Xavier Mary Bianchi, the Eminent and Reverend Cardinal Aloysius Billio, promoter of this cause, proposed the following question in the Ordinary Congregations of the Sacred Rites held today at the Vatican: "Does it appear to be the case that the most recent Apostolic process conducted in Naples concerning the miracle is valid? Are the witnesses duly..."

[*Latin ed. p. 167*]

167. Has the decree been properly examined, and have the legitimate rights been duly established in the case and to the effect of which we are speaking? Furthermore, after the Most Reverend and Most Illustrious Fathers entrusted with the preservation of the sacred rites had carefully considered everything, and after having heard and read the written and verbal account of the Reverend Father Lawrence Salvati, Promoter of the Holy Faith, they decided to respond "Affirmatively, or it is established." On January 22, 1876. Subsequently, a report on the aforementioned matters was presented to the Most Holy Lord, our Pope Pius IX, by the undersigned Secretary of the Congregation of Sacred Rites, and His Holiness approved and confirmed the judgment of the Sacred Congregation on the same day,

Translated by churchlatin.ai, a product of Boyne Archives

the 27th of the same month and year. Cardinal PATRIZI, Bishop of Ostia and Velletri, Prefect of the Sacred Congregation. L. © S. Reverend Father Placidus Ralli, Secretary. Joseph Ciccolini, Substitute. FROM VATICAN To the Most Eminent Archbishop of Bologna, a Brief granting certain indulgences, granted by the Most Holy. PIUS PP. IX. VENERABLE BROTHER, GREETINGS AND APOSTOLIC BENEDICTION. To those who, from their tender years, have shown singular devotion and the deepest affection for the Holy Mother of God, Mary, and who have constantly striven to promote her praise and glory, we gladly and cheerfully grant and bestow those things which are requested by us in her honor, our most beloved Mother. Indeed, our beloved son, Archangel Maria Gatti, Abbot Visitor General,

[*Latin ed. p. 168*]

168 From the Lateran Palace, the Regular Canons have explained to Us, for their own devotion to the Immaculate Virgin Mary, how very desirous they are that the most ancient and renowned image of the Blessed Virgin Mary with the Divine Child Jesus, known as *Victoria*, which they have transported with singular reverence to their abbatial church in Bologna, dedicated to the Most Holy Savior, be adorned with a golden diadem by Us, through you, venerable Brother, as Our Delegate, and that its cult and the devotion of the faithful be increased. Therefore, most readily complying with such desires, We grant you, venerable Brother, through these letters, with Our Apostolic authority, the faculty to freely and lawfully, this year, on the fifteenth day of August, after a previously announced solemn celebration, to place a golden crown, in Our name, upon the aforementioned image of the Blessed Virgin Mary *Victoria* with the Divine Child Jesus, located in the abbatial church of the Most Holy Savior in Bologna, and to perform this act. Furthermore, that the faithful may approach the Holy Mother of God with even greater piety, so that, in these most sorrowful times, she may deign to comfort her people, and that, even from this solemnity, they may receive a safeguard for their eternal blessedness, We grant that all and each Christian of both sexes, who shall visit the aforementioned abbatial church of the Most Holy Savior, and there the aforementioned image of the Blessed Virgin Mary *Victoria* on the aforementioned day of the coronation, or on one of the seven consecutive days immediately following, at the discretion of each Christian, and also each year on the anniversary of that same coronation, having truly repented and confessed, and having received Holy Communion, shall devoutly offer pious prayers to God there, for the concord of Christian princes, for the eradication of heresies, for the conversion of sinners, and for the exaltation of the Holy Mother Church, shall receive, with mercy in the Lord, a Plenary Indulgence and remission of all their sins, which may also be applied to the souls of Christian faithful who, having been united with God in charity, have

Translated by churchlatin.ai, a product of Boyne Archives

departed from this life, through the manner of suffrage.

[*Latin ed. p. 169*]

We grant the Apostolic Brief 169. Notwithstanding any Apostolic Constitutions and Ordinances, general or special, issued in universal, provincial, and synodal Councils, and all other contrary things whatsoever. We wish that to the copies or exemplars of these present Letters, even printed ones, signed by the hand of a public Notary, and secured with the seal of a person constituted in ecclesiastical dignity, the very same faith be given, as would be given to these present Letters themselves, if they were exhibited or shown. Given in Rome, at St. Peter's, under the seal of the Fisherman, on the 16th of July, 1875, in the thirtieth year of Our Pontificate. F. Card. ASQUINIUS. The Most Holy Pope Pius VI granted a Brief, by which various indulgences are conceded to those who recite the Hymn: "Veni Creator Spiritus." PIUS PP. VI. FOR PERPETUAL REMEMBRANCE. Our Savior Jesus Christ, ascending into Heaven, lest He leave us orphans, prayed to the Father, that He might give us another Paraclete, who, remaining with us forever, might visit our minds, and fill our hearts with heavenly grace, that we might repel the enemy, seek true peace, and, guided by Him, avoid all that is harmful. Now, especially in these calamitous times of Ours, in which we hold the reins of the Church not by our merits, but by the mercy of God, a wicked novelty has arisen, which...

1 In the works which mention indulgences attached to such a recitation of the hymn, the requirements for obtaining them are not always given. Therefore, we do not consider the publication of the following Brief to be useless, in which the aforementioned requirements are clearly stated. - N. B.

[*Latin ed. p. 170*]

170. He presumes to tear away the peace from the Vatican, to obscure minds with foreign and varied doctrines, and to capture us, who are free, with the liberty that Christ the Lord has granted us. We, to whom it most greatly pertains that the faithful should not be led away by new and varied doctrines, but that they may only behold the light of truth in the simplicity of heart and the unity of faith, strive readily to reveal the heavenly treasures, of which the dispensation of our faith is entrusted to us, so that the faithful, being drawn by these things, may flee to this Divine Paraclete with all their heart, may invoke Him, that He may enlighten minds, inflame hearts, and enrich our souls with the intimate dew of His grace, and thus deign to renew the face of the earth with the light of His charity. Therefore, confident in the mercy of Almighty God, and by the authority of the blessed Apostles Peter and Paul, we grant to all and each of the faithful of both sexes who are truly penitent and refreshed by the holy communion, who, once or several times in a day, have devoutly recited the hymn "Veni Creator Spiritus," etc.,

Translated by churchlatin.ai, a product of Boyne Archives

and in any other language, kneeling, and who have poured forth pious prayers to God for the concord of Christian princes, the eradication of heresies, and the exaltation of the Holy Mother Church, a plenary indulgence and remission of all their sins and penances, to be gained by each faithful person, at his own discretion, on any day of the month. Furthermore, to the same faithful who, having recited the aforementioned hymn on the Sunday of Pentecost, and on each day within that octave, as above, and, as is fitting, have prayed, we grant three hundred days; and on each of the remaining days of the year, as often as they do so, one hundred days of the penances prescribed to them or of any other debts of penance, according to the usual form of the Church. This grant is valid notwithstanding any opposition. It is effective for the present, perpetually, and for all future times. We wish that copies or exemplars of these present letters be also.

[*Latin ed. p. 171*]

An Apostolic Brief, number 171, having been printed, and bearing the signature and seal of a public notary, and being addressed to a person holding ecclesiastical dignity, the same faith is to be given to it as would be given if the original document were presented or shown. Given in Rome, at St. Peter's, under the fisherman's ring, on the twenty-sixth day of April, 1796, in the twenty-second year of Our Pontificate. R. Card. BRASCRTUS DE HONESTIS. This agrees with the original, which is preserved in the archives of the Secretariat of Briefs. For the Most Reverend Cardinal Dominic Jacomini, Substitute. FROM THE MINUTES, IN THE MANNER OF CONSISTORY MEETINGS, FROM THE PROPOSALS PRESENTED AT THE CONSISTORY. On April 3, 1876. His Holiness, Pope Pius IX, this morning in the Apostolic Palace at the Vatican, after His Eminence Cardinal Bartolini had relinquished the deaconry of St. Nicholas in Carceres, and had requested the title of St. Mark, proceeding to the last place among the Most Eminent Cardinals of the Order of Presbyters; and after, as is customary, His Eminence Cardinal Guiffredo Brossais, having been created and publicly announced on September 17, 1875, proposed the following churches: The Metropolitan Church of Vienna, in Austria, vacant through the death of the Most Reverend Monsignor Joseph Othmar, of the Sacred Roman Empire, while he was a Cardinal Priest; after the death of that Archbishop, outside the Roman Curia; His Holiness, with regard to the aforementioned church, proposed the nomination of His Imperial Majesty Francis Joseph, First of Austria.

[*Latin ed. p. 172*]

172 From the Acts, modeled after Consistorial records, the Apostolic King transferred Father John Baptist Kutschker, whose qualities had been approved by the Apostolic See, to the Carrhenian Church in the month of April 1862. Having accepted the office of consecration, although he could

Translated by churchlatin.ai, a product of Boyne Archives

not access the Church entrusted to him, he nevertheless, as Auxiliary of the Vindobonensis archdiocese, and as General Vicar, and as Prefect of the metropolitan Church, solemnly celebrated pontifical services, performed sacred ordinations, administered the sacrament of Confirmation, and diligently performed other pastoral duties. Vienna, or Vindobona, an ancient and well-known city and the capital of the Austrian Empire, situated on the Danube, contains nearly twelve thousand houses, and over five hundred seventy thousand inhabitants devoted to the Roman Catholic Church, under the temporal dominion of the aforementioned Most Serene Emperor and King. The metropolitan Church, a spacious, beautiful, and Gothic structure, boasts the title of Saint Stephen, the Protomartyr; repairs, which it requires, are currently underway, and it is assisted by two bishops. Its chapter lists five dignitaries, after the pontifical, the first being the Prefect, then thirteen canons with a theologian and penitentiary, and fourteen other priests, who, along with the seminary clergy, are devoted to divine service. The Archdiocesan Magister Curiae and thirteen presbyters also minister to the souls in the metropolitan area, where there is a baptismal font, and many notable relics of the saints are religiously preserved in the treasury of Saint Stephen. In addition to the metropolitan Church, there are thirty-three parish churches with baptismal fonts in Vienna and its suburbs, a collegiate church dedicated to Saint Peter, fifteen monasteries for men, and ten for women, several lay sodalities, several hospitals, a pawnbroker's, and two seminaries. The extent of the archdiocese is quite wide, encompassing many parishes. The Archiepiscopal See of Caieta is vacant, due to the death of the Most Reverend Philip Cammarota, the last Archbishop, who died outside of Rome; the Most Holy [Pope] promoted the Reverend Nicholas Contieri, in the world Francis Xavier, born of legitimate, Catholic, and honorable parents in the city of Bari, to the related Church, in the forty-ninth year of his age. Having professed his solemn vows in the Order of Saint Basil at the Monastery of the Iron Crypt.

[*Latin ed. p. 173*]

He was initiated into the priesthood and, in the performance of ecclesiastical functions, especially in hearing the sacramental confessions of both sexes, and even of nuns, he labored diligently. Declared a reader in philosophy and theology, he skillfully imparted the very faculties of his Order to the students, and attained the office of master of sacred theology. Formerly, he was the administrator of the Crypt of the Iron Gate of the same monastery, but he has now renounced the office of abbot. In the province of Campania Felix, in the Neapolitan countryside, the city of Gaeta is built on the slope of the mountain, and within its walls, together with its suburbs, it contains nearly two and a half thousand houses, and approximately eighteen thousand inhabitants. The archiepiscopal Church of the Assumption

Translated by churchlatin.ai, a product of Boyne Archives

of the Blessed Virgin Mary bears this glorious title, and there is no suffragan bishop assigned to it; it is immediately subject to the Holy Apostolic See. Its chapter numbers four dignitaries, of whom, after the pontifical official, the first is the archpriest, followed by seventeen canons, including a theologian and a penitentiary, ten hebdomadary chaplains, and other priests and clerics serving in the divine ministry. The chapter has the habitual care of souls, and this is exercised by one of the aforementioned canons in the church, which, besides the baptismal font, is adorned with the relics of several saints, among whom are the bodies of SS. Erasmus and Marcian, the patrons of the city, which are kept with due reverence, and there is also a cemetery outside the city walls. Furthermore, there are seven other parish churches in Gaeta and its suburbs, some of which are equipped with baptismal fonts, and there are also two monasteries for men, a conservatory, several lay sodalities, two hospitals, and two charitable institutions for the education of boys and girls, a pawnshop, and a seminary. The territory of the diocese extends to nearly twenty-five thousand *ria*, and includes several towns. The Metropolitan Church of Leopolis is vacant, following the death of the Most Reverend Gregory Michael Szymonowicz, the last archbishop of that church, who died outside the Roman curia. To that same church, in accordance with the nomination of His Most Sacred Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, the Apostolic promoted the Reverend Gregory Joseph Romaszckan, born of legitimate, Catholic, and noble parents in the city of Kutno, in the archdiocese of Leopolis, and who had surpassed his sixtieth seventh year. He had recently received the sacred order of priesthood, and was engaged in the performance of ecclesiastical functions.

[*Latin ed. p. 174*]

He led a life modeled after the acts of a Consistory. The Canon of the Armenian Rite Chapter of Leopolis, who had previously resigned, served as Assessor of the Consistory, Examiner of the Archdiocesan Tribunal in hermeneutics and sacred exegesis, and Director of the mountain bank. Since the Armenian Rite seat in Leopolis is vacant, a Vicarius Capitularis has been appointed. The city of Leopolis, and capital of Galicz, is built on a plain, surrounded by mountains, and contains houses, and is inhabited by nearly one hundred thousand citizens under the temporary dominion of the aforementioned Most Serene Emperor and King. The Metropolitan Church of the Armenian-Catholic Rite, immediately subject to the Apostolic See, bears the title of the Blessed Virgin Mary, assumed into Heaven, is sufficiently spacious and solidly constructed, requires no repairs, and has no suffragan bishop. Its Chapter numbers eight priests who serve there in the divine ministry, of whom, after the pontifical, the highest in dignity is the Prelate, and four others are Canons. The Canons and priests of the Armenian Rite themselves exercise

Translated by churchlatin.ai, a product of Boyne Archives

pastoral care in the metropolitan church, where there is a baptismal font and several relics of saints are decently preserved. The territory of the Archdiocese encompasses Armenian Catholics of both provinces of Galicz and Bucovina, and includes nine parishes and one chapel.

In the years 1871 and 1872, the Cathedral Churches of Fabriano and Mathilicen, perpetually canonically united, were vacant due to the death of the Most Reverend Anthony Mary Valenziani, the last bishop of those churches, who died outside of Rome. The Most Holy See transferred the administration of those churches to the Reverend Father Leopold Angel Santanché, of the Order of the Minor Reformers of Saint Francis, from the Asculanae diocese of Aquasanta. His qualities having been approved by the Apostolic See, he resigned as Archbishop of Acridanus in May of 1871. Having accepted the office of consecration, although he could not access those churches, as they were held by non-believers, he nevertheless performed sacred ordinations as Apostolic Delegate in the territories of Haiti, Saint Dominic, and Venezuela, and in the Patriarchate of Constantinople, celebrated pontifical masses, administered the sacrament of confirmation, and diligently performed other pastoral duties, and he is also a Consultant of the Congregations of Propaganda Fide, and is assigned to extraordinary ecclesiastical affairs. Fabriano and Mathilicen are cities of the Piceno region; the former is located on a plain and has a circumference of almost three miles, containing one thousand five hundred houses, and is inhabited by seven thousand people; the latter...

[*Latin ed. p. 175*]

Proposition 175 pertains to a place situated at the foot of the Apennine Mountains, in a plain, within a circumference of one Roman mile, and contains eight hundred houses, with over a thousand inhabitants. The Cathedral Church is dedicated to Saint Venantius the Martyr; the church of Mathilia is dedicated to Saint Mary of the Square, and to Saint Bartholomew. Both parishes possess the same dignity, the parish of Fabriano being a Priory, and that of Mathilia an Archpresbytery; they also have thirteen canons assigned to each, eight benefices, or chaplains in the first, and several in the second, along with other priests and clerics devoted to divine service. The care of souls is exercised by the respective parish priests in the cathedrals, where, besides the baptismal font, there are also many relics of the saints, among which, in Fabriano, are the relics of Saint Constantine, and of the Conventual and Dominican Orders, and in Mathilia, the relics of Saint Hadrian, the patron saint of the city, which are properly preserved. Three other parish churches are found in Fabriano, one of which lacks a baptismal font, and another is dedicated to Saint Nicholas of Bari and is also a Collegiate church. There are also a men's monastery, and four women's monasteries, an orphanage, a foundling hospital, several lay sodalities, a pawnbroker's, and, for both dioceses, a

Translated by churchlatin.ai, a product of Boyne Archives

seminary. In Mathilia, there is only one curial church, three monasteries for men, and two for nuns, an orphanage, several lay sodalities, a hospital, and a pawnbroker's.

The CATHEDRAL CHURCH OF GROSSETO is vacant, following the death of the Most Reverend Anselm Fauli, the last bishop, who died outside the Roman curia. The Most Holy [See] transferred the administration to the Reverend Father John Baptist Bagalà Blasini. His qualities were approved by the Apostolic See, and in May of 1868, he was prefect of the church of Cydonia. Having accepted the office of consecration, although he could not access the church itself, as it was held by infidels, he, as a Canon Jubilarian of the church of Leghorn, and as Vicar General while that see was vacant, solemnly celebrated pontifical Masses, performed sacred ordinations, administered the sacrament of Confirmation, made a diocesan visitation by delegation from the late administrator bishop, and fulfilled other pastoral duties. Grosseto, or Roseto, is a city in Tuscany, built on a plain on the right bank of the Ombrone River, and within a circumference of approximately one Roman mile, it contains nearly five hundred houses. The Cathedral Church is dedicated to Saint Lawrence the Deacon and Martyr, and is a suffragan of the Archbishop of Siena.

[*Latin ed. p. 176*]

176 From the records, modeled after Consistorial documents, it is noted that the Cathedral has only one Prefect, and eleven Canons, along with a theologian and a penitentiary. There are also a sacristan, eight chaplains, and other priests and clerics serving in the divine ministry. Through this Prefect, the care of souls is exercised in the aforementioned Cathedral, where there is a baptismal font, unique in the city, and several relics of the saints, notably the remains of the holy martyrs Hadrian and Felician, which are properly preserved. Besides the Cathedral, there is no other parish church in Grosseto, nor any monastery of men or women, nor a house of piety, nor a seminary, but only three lay sodalities and a hospital. The diocese extends to approximately sixty leagues, and contains many parishes under its jurisdiction. The CATHEDRAL CHURCH OF EPERIES is vacant, due to the death of the Most Reverend Joseph Gaganecz, the last bishop of that see, who died outside the Roman curia. The Most Holy [Pope], upon the nomination of His Imperial Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, Apostolic King, appointed the Reverend Nicholas Toth, born of legitimate, Greco-Catholic, and honorable parents from Mukachevo, and who was established in the aforementioned office in his thirty-third year. Ordained as a priest and previously awarded a doctorate in sacred theology, he has applied his mind diligently to ecclesiastical functions. He was once devoted to the care of souls, serving as a spiritual director in the seminary of Ungvár, and later as a professor. He was then appointed to the chair of moral theology

Translated by churchlatin.ai, a product of Boyne Archives

at the Hungarian university, and subsequently served as Rector of the seminary in Mukachevo, and as a Canon of this Cathedral, until now. He is a man endowed with doctrine, gravity, prudence, honest morals, and practical wisdom. Eperies, one of the principal cities of Northern Hungary, located in the County of Szarvas, on the river Taraca, is of considerable size, consisting of nearly a thousand houses, and is inhabited by approximately ten thousand faithful, of whom one thousand and two hundred are of the Greco-Catholic rite, under the temporary dominion of the aforementioned Most Serene Emperor and King. The Cathedral church of the Greco-Catholics is a solid structure, and has recently been splendidly renovated, and is dedicated to Saint John the Baptist, and is a suffragan of the Archbishop of Gran. Its Chapter consists of six canons, both titular and honorary, and of these, the first is the Prefect, which is the highest dignity after the pontifical office, and the second is the Scholastic, or theologian.

[*Latin ed. p. 177*]

From the Consistorial Decrees 177: The canonical care of souls is exercised in the Cathedral, where the font of baptism is present. One finds in the city of Eperjes a parish church of the Greek rite of Catholics, and the Society of St. John the Baptist; there is no collegiate church, nor any monastery of the same rite, nor any pious foundation, nor seminary: but the diocesan clergy are educated in the seminaries of Vienna, Budapest, and Ungvár, or Mukachevo. The extent of the diocese extends through seven upper counties of the Kingdom of Hungary, and includes under its jurisdiction one hundred and eighty-seven parishes, and two thousand two hundred and twenty-eight dependent chapels. The Episcopal See of Tinnini is vacant, due to the death of the Most Reverend John Baptist Nehiba, the last bishop, who died outside the Roman curia; the Most Holy [Pope], upon the nomination of the Most Serene Emperor Francis Joseph I of Austria, King of Bohemia and Hungary, appointed the Reverend Father Michael Kubinszky, born of legitimate, Catholic, and honest parents in the town of Duna-Pataj, in the archdiocese of Kolozsvár, and established him in the fifty-second year of his age. Ordained as a priest, and having already received a doctorate in sacred theology, he has shown himself capable in fulfilling ecclesiastical functions, even as a chaplain in the care of souls, and as the spiritual director of the archdiocesan seminary. He has also served as the superior inspector of Catholic schools, and as the director, or prefect, of the archiepiscopal lyceum, or of the school of the nuns of Our Lady, and was chosen as a professor of theology and rector of that seminary, and as prefect of the central seminary of Pest. Among the pre-synodal examiners, he was appointed as a chaplain to the court, and as prefect of the Blessed Virgin Mary of Hatvan. As a theologian canon of the metropolitan church of Kolozsvár, and successively as a canon lecturer, he has now resigned;

Translated by churchlatin.ai, a product of Boyne Archives

he has demonstrated such examples of doctrine, gravity, prudence, moral integrity, and excellence in practice, that he deserved to be counted among the domestic prelates of the Most Holy Pope Pius IX by divine providence. The city of Tinnini, formerly called Arduba, is located in the province of Croatia, on the river Litia, under the temporary dominion of the praised Serene Emperor and King; and although occupied by the Turks, there are still many Christians and faithful in it, and in its diocese. The ruins of the old Cathedral church, erected in honor of St. John the Evangelist, and of the suffragan archbishop of Kolozsvár, are still visible. Acts, Vol. IX, page C. 12.

[*Latin ed. p. 178*]

178 From the records, similar to Consistorial proceedings, the Bishop lacks his own house and revenues, which are occupied by the Turks. The CATHEDRAL CHURCH of Oran is vacant, due to the death of the Most Reverend John Baptist Callot, the last Bishop, who died outside the Roman Curia; the Most Holy Father, upon the nomination of the most illustrious Man, Maurice de Mac-Mahon, Duke of Magenta, President of the Republic of France, appointed the Reverend Angel Vigne to the aforementioned Church. He is descended from legitimate, Catholic, and honorable parents in the place commonly called Grignan, in the diocese of Valence, and is in his fiftieth year. Ordained to the sacred priesthood some time ago, he has shown little aptitude for performing ecclesiastical functions, especially in receiving the sacramental confessions of the faithful. Having served as Professor of Rhetoric in the small seminary of Valence, as a Vicar in the care of souls, and as a Chaplain, he has now relinquished the position of General Vicar for the diocese of Valence. The city of Oran, in the province of Algiers, located on the coast of the Mediterranean Sea, is partially on the plain and partially on a hill, and enjoys walls, a fortress, and a port, and contains approximately thirty thousand inhabitants, of whom nearly half profess the Catholic religion under temporary French rule. The Cathedral Church is dedicated to Saint Louis and is a suffragan of the Archbishopric of Caesarea. Its Chapter, according to the model of other Chapters in France, currently consists of four Canons, the first of whom bears the title of "Praepositus"; in addition, several Vicars and even students from the major seminary are dedicated to the service of the Church, especially during the solemn feasts. The care of souls in the Cathedral is exercised by the Parish Priest and the aforementioned Vicars, where there is a baptismal font, and where some relics of the Saints are decently preserved. Another church is located in Oran, dedicated to Saint Andrew, and there is also a religious house for men and women, a seminary, and a charitable institution. The territory of the diocese encompasses the civil province of Oran and includes several other places. The CATHEDRAL CHURCH of Segovia is vacant, due to the death of the Most Reverend Ruderic Echeverría and Briones, the last

Translated by churchlatin.ai, a product of Boyne Archives

Bishop, who died outside the Roman Curia; the Most Holy Father, upon the presentation of the Most Serene King of the Catholics, appointed the Reverend Anthony Garcia and Fernandez to the aforementioned Church. He is descended from legitimate, Catholic, and honorable parents in the place commonly called Medina de Pomar, in the archdiocese of Burgos, and is in his forty-second year.

[*Latin ed. p. 179*]

Having received the degrees of Master and Doctor of Sacred Theology, and having been granted a license in Sacred Canon Law, he diligently discharged ecclesiastical duties, notably as Parish Priest of Saint Stephen in Vallisoletana. He was appointed Professor in the Seminary of Sacred Theology, and also served as Chancellor and Rector of the Seminary of Salmática, and has thus far renounced the position of Cathedral Canon. Segovia, or Segovia, the capital of the province of the same name and an ancient city of Castile, is inhabited by one thousand eight hundred families, or more than seven thousand inhabitants, and is under the temporary dominion of the aforementioned Most Serene King Catholic. The Cathedral Church boasts a magnificent Gothic structure dedicated to the Blessed Virgin Mary of Peace, and, according to Apostolic Letters entitled "Ad Vicariam" dated the ninth of September 1851, it serves as a suffragan to the Archbishop of Vallisoletana. Its Chapter, as stated in the aforementioned Apostolic Letters, comprises five dignitaries, followed by the highest office of Dean, four Canons with theological and penitential duties, seven honorary Canons, and twelve beneficiaries. The care of souls in the Cathedral is exercised by an economist elected by the Bishop, and there is not only a baptismal font, but also numerous relics of the Saints, among which are the remains of Saint Frutuoso, the devoted patron of the diocese, which are properly preserved. Seventeen parochial churches with baptismal fonts are enumerated in Segovia, along with seven monasteries for women, several lay sodalities, a hospital, and a seminary; however, there is no charitable institution (mont de piété). The extent of the diocese extends to more than sixty leagues, and includes the Collegiate Church of Saint Ildefonso and several other locations.

The SEGOBRICEN CATHEDRAL is vacant, following the death of the Most Reverend Joseph Louis Montagut, the last Bishop, who has already passed away outside of Rome. The Most Holy [Pope] has promoted the Reverend Don Marianum Miguel Gómez, born of legitimate, Catholic, and honorable parents in the place commonly called Cernera de Rio-Pisuerga, in the diocese of LeÃ³n, and who has surpassed his sixtieth year, to the aforementioned Church. Ordained a priest and having previously received the degree of Doctor of Sacred Theology, he has commendably exercised ecclesiastical functions, notably by preaching the Word of God and receiving the sacramental confessions of the faithful. He previously held the position

Translated by churchlatin.ai, a product of Boyne Archives

of Lector Canon in the Segovian Cathedral, and has also served in the Vallisoletana Seminary of Sacred Scripture.

[*Latin ed. p. 180*]

180 From the Acts, he was appointed Professor of Oratory and Liturgy, and also Rector. He was co-opted among the Examining Judges of the archdiocese and the synodal judges, and he resigned his position as a member of the house of beneficence. Segorbe, or Segobriga, is a city of the Kingdom of Valencia in Spain, in the province of Castiglione delle Stiviere near La Plaine, situated on the Turulim River, and is inhabited by approximately six hundred families, under the temporary dominion of the aforementioned Most Serene King of the Catholics. The Cathedral Church, a sufficiently large building, boasts the title of the Assumption of the Blessed Virgin Mary, and it is a suffragan of the Archbishopric of Valencia. However, the Episcopal See of Segorbe was transferred to Castiglione delle Stiviere according to the Apostolic Letters "Ad Vicariam" dated September 9, 1851, by whose provisions the Chapter numbers five dignities, of which, after the pontifical major, there is a Dean, four Canons with a theologian and a penitentiary by office, seven honorary Canons, and twelve beneficed Canons. The care of souls is exercised in the Cathedral, where there is a baptismal font, and several notable relics of the Saints are decently preserved. There is no other parish or collegiate church in Segorbe, nor a hospital, but only two monasteries for women, and a seminary. The extent of the diocese extends approximately sixteen leagues in latitude and seven leagues in longitude, and it encompasses several parishes and towns. The Reverend Father Francis Mary Granado, by succession, held the Episcopal See of Troaden, which was vacant in the parts of the infidels, and he was promoted to the Cathedral See of Cochabamba. The Most Holy Father promoted the Reverend Father Odoardo Agnelli, born of legitimate, Catholic, and honest parents in the diocese of Ripana near the Sea of Crypta, to the same Church, and he is sixty-three years of age. Having recently been ordained to the sacred priesthood, and having obtained the laurea in both law from the University of Rome, he has devoted himself to ecclesiastical functions. Having been devoted to studies in the sacred councils and congregations of bishops and regulars, he has performed the duties of General Auditor of the present Most Reverend Archbishop, with the faculties of General Vicar, and of Judge of the same Curia, and of Synodal Examiner, and has sometimes administered the archdiocese. He is also included among the domestic prelates and supernumerary Apostolic Protonotaries of his Holiness.

[*Latin ed. p. 181*]

From the Consistorial Acts of 181, he was first appointed Apostolic Delegate of the province of Benevento, then served as a judge in the civil court of Rome for ecclesiastical causes, and was subsequently appointed President

Translated by churchlatin.ai, a product of Boyne Archives

of the second section there. He had previously been appointed a Canon of the Patriarchal Basilica of Saint Mary Major, and was also appointed Apostolic Visitor to certain monasteries in the city, and most recently, he resigned from the position of President of the Pontifical Academy of Noble Ecclesiastics. The cities of Troas and Alexandria in Asia Minor, founded by Alexander the Great on the coast of the Aegean Sea, are still miserably subject to the yoke of the infidels; therefore, their condition is passed over in shameful silence. The EPISCOPAL CHURCH of Tripolis, formerly under the Archbishop of Tyre, is now vacant in the lands of the infidels, due to the translation of the Reverend Father Philip Manetti to the Archbishopric of Sardinia. The Most Holy [See] has appointed the Reverend Father Alexander Paul Spoglia, formerly the Antistite of Comacchio, as Coadjutor with future succession to the newly established Church of Tripolis, having appointed the Reverend Father Alexander Grossi, born of legitimate, Catholic, and honorable parents in Pesaro, and who, in his forty-fourth year, was appointed. He has shown great aptitude in ecclesiastical duties, especially in receiving the confessions of the faithful. He has previously served as a priest, and has been awarded a doctorate in sacred theology, and in both civil and canon law. He has until now fulfilled the duties of Archdeacon of Pesaro, and has been included among the Examining Pro-Synodal members, as well as serving as a judge of that ecclesiastical court, as Vicar of the Patriarchal Archbasilica of the Lateran, and as Rector of the seminary of Pesaro. He has resigned from the position of General Pro-Vicar for spiritual matters in the diocese of Pesaro. The city of Tripolis, an episcopal city of Phoenicia, located near the river Xanthus, is still held by the infidels; therefore, its miserable condition cannot be reported. Comacchio, or Comacula, a city in Romagna, located between Ferrara and Ravenna, near the Adriatic Sea, between marshes and on the plain, has a circumference of about three miles and contains one thousand two hundred houses, and is inhabited by more than seven thousand citizens. The Cathedral Church, sufficiently large, of recent and excellent construction, is dedicated to the Martyr Saint Cassian, and is a suffragan of the Archbishop of Ravenna. Its Chapter includes two dignitaries, after the pontifical office, an Archpriest, eighteen Canons with a theologian and penitentiary, three Mansionaries, and other priests and clerics who serve in the divine ministry.

[*Latin ed. p. 182*]

182 From the Acts, modeled after Consistorial proceedings, concerning removable chaplains assigned by the Archpriest, the pastoral care of souls is exercised in the Cathedral, where there is a baptismal font, unique in the city, and where the relics of many saints are present, especially those of the patron saint of the city, St. Cassian. The EPISCOPAL CHURCH of Canopus, under the Patriarch of Alexandria, is located in a region among the infidels, having become vacant through the death of the Most Reverend

Translated by churchlatin.ai, a product of Boyne Archives

Ludovico Besi, the last bishop outside the Roman curia. To the same church of Canopus, and as coadjutor, the Most Holy [See] has appointed the Reverend Father Charles de Caprio, a priest of the Melitan Order, with the right of succession, born of legitimate, Catholic, and honorable parents in the town of Casanova in the archdiocese of Capua, and having reached the sixty-fourth year of his age. Ordained to the priesthood, he had previously received a doctorate in sacred theology, and is enrolled in the College of Theologians at the University of Naples, for the purpose of honor. He has diligently performed his duties in ecclesiastical functions, notably preaching the word of God, even in sacred missions, and administering the sacraments to both sexes, as well as hearing the confessions of nuns. He has served as pastor in the town of Bellona, and has fulfilled the duties of a lecturer in the humanities, philosophy, and theology (both dogmatic and moral) at the archdiocesan seminary, and until now, as Moderator. He has been co-opted among the pre-synodal advisors and, at the Chapter of Capua, has been honored with a canonry and, successively, with the second dignity of Archdeacon, until the present time. The city of Canopus, in Egypt, located at the western mouth of the Nile River, still groans miserably under the power of the infidels; therefore, its condition is passed over in shameful silence. The city of Miletus, among the Bruttians, in the more southern part of Calabria, is located on a second level, and contains approximately five hundred houses, and is inhabited by over a thousand souls. The Cathedral Church is dedicated to St. Nicholas of Myra, and, although shaken by earthquakes, a new building has arisen, more splendid than the former, but still requires some completion, and is immediately subject to the Apostolic See. Its Chapter consists of five dignitaries, after the pontifical dignity, the Archdeacon; thirteen canons, including a theologian and a penitentiary; eight beneficed chaplains, called Choral Chaplains; and other priests and clerics who serve in divine matters. Through the Archpriest, the fifth dignity of the Chapter, the care of souls is...

[*Latin ed. p. 183*]

From the Consistorial Decrees, care is exercised in the same Cathedral, where there is a baptismal font and several relics of the Saints, among which is the body of St. Fortunatus, the Martyr, properly preserved. The Episcopal Church of Teien, under the Archbishop of Ephesus, is vacant in the lands of the infidels, due to the death of the Most Reverend Mariano Ortiz Urrueta, the last Bishop, who died outside the Roman curia; the Most Holy [Pope] promoted him to the same Church of Teien, and appointed as his Coadjutor, with future succession, the Reverend Father Nicholas de Martino, the Priest of Venusia. He also appointed the Reverend Father Jerome Volpe, who, in the world, was named Pasquale, born in Naples from legitimate, Catholic, and honest parents, and who, in the fifty-second year of his age, solemnly professed the Order of St. Jerome of the Congregation

Translated by churchlatin.ai, a product of Boyne Archives

of St. Peter of Pisa, and there was received into the priesthood, and who has already attained the license of lector and the degree of master in sacred theology, and diligently applies himself to ecclesiastical duties, especially in preaching the word of God and in receiving the confessions of the faithful. He has been appointed among the Examiners of the clergy of Avellino, and among the Visitors of the Archdiocese of Naples, and has previously performed his duties as Prior and in his Order's Province in Naples. Teia is a city in the Ionian region, on the coast of the sea in Asia Minor, which still lies under the tyranny of the infidels; therefore, its miserable condition is passed over in silence. Venusia, or Venusium, is a city of Apulia and Peucetia, on the border of Lucania and the Neapolitan countryside, built in a pleasant location at the foot of the Apennine Mountains, in a fertile plain, and within its circumference of about four miles, it comprises nearly a thousand houses, and more than eight thousand inhabitants. The Cathedral Church boasts the title of the ancient building of St. Andrew the Apostle, and it serves as a suffragan to the Archbishop of Acerenza and Matera. Its Chapter consists of four dignities, after which comes the Archdeaconate, with twenty Canons, including a theologian and a penitentiary, twelve Mansionaries or Beneficiaries, and other priests and clerics who serve in divine matters. The care of souls in six other parishes of the same city is exercised by their respective Rectors, but not in the Cathedral, where, however, there is a baptismal font, unique in the city, and several relics of the Saints, which are properly preserved. Besides the Cathedral, and the six aforementioned parish churches, there is one monastery for men, and two monasteries for women, in the city.

[*Latin ed. p. 184*]

From the Acts, as an example, one conservatory, several lay societies, a hospital, and a seminary which is not yet completed. The diocese extends approximately thirty leagues, and encompasses four places under its jurisdiction. By a Papal Brief, the Cathedral Church of Ferns was granted to the Reverend Michael Waren, a Hibernian, to serve as Penitentiary in that Cathedral. Subsequently, the same Holiness created and proclaimed Cardinals of the Holy Roman Church: from the Order of Presbyters, the Reverend Bartholomew d'Avanzo, Bishop of Calven and Theanen; and the Reverend John Baptist Pranzelin, of the Society of Jesus. Furthermore, the Most Holy Father, according to custom, addressed the Most Reverend Cardinal Brossais Saint Marc. A petition for the granting of the Pallium was also made for the Metropolitan Church of Vienna, and for the Archdioceses of Gaeta and Lviv of the Armenian Rite. Finally, the same Holiness bestowed the cardinal's ring upon the Most Reverend Cardinal Brossais Saint Marc, granting him also the titular church of Saint Mary Victoria. On April 7th, the Most Holy Father, having concluded the customary audience, addressed Cardinal Miecislaus Ledochowski, who had been created and pro-

Translated by churchlatin.ai, a product of Boyne Archives

claimed on March 15, 1875, and the Most Reverend Bartholomew d'Avanzo and John Baptist Franzelin, who had been created and proclaimed on the 3rd of the same month, and proposed the following churches: the CATHEDRAL CHURCH OF SIBENICEN, vacant, through the translation of the Reverend John Zaffron to the See of Ragusa; and the Most Holy Father, by virtue of an Apostolic Indult, elevated to the aforementioned church the Reverend Anthony, Innocent, Joseph Fosco, born of legitimate, Catholic, and honest parents in Sibenic, and in the fiftieth year of his age.

[*Latin ed. p. 185*]

From the Consistorial Decrees, number 185, concerning promotions. Having recently received the sacred order of the priesthood, he has commendably exercised himself in the performance of ecclesiastical duties, especially in preaching the word of God in Italian and Illyrian. He has served as Inspector, ecclesiastical Counselor for the scholastic district, and as a member of a public welfare commission, as well as fulfilling the offices of Examiner and pro-synodal Judge, and as Counselor in the matrimonial tribunal. He was previously co-opted among the supernumerary secret chamberlains of HIS HOLINESS, and then as a Domestic Prelate, and has recently resigned from the position of Canon of the Cathedral of Sebenico, as well as being Parochial Vicar and First Dean of the district. Sebenico, or Sebenigo, is a city in the province of Dalmatia, situated at the foot of the mountains in a rugged location near the river Titium, commonly called Kerka, on the coast of the Adriatic Sea. It has a circumference of approximately one and a half miles, contains over one hundred and sixty houses, and is inhabited by approximately six thousand Catholics, under the temporary dominion of the aforementioned Most Serene Emperor and King. The Cathedral Church, a solid, elegant, and sufficiently spacious structure, boasts the title of Saint James the Greater Apostle. Its Chapter includes two dignities, of which the first, after the pontifical, is the Praepositura, with four titular Canons, a theologian, and a penitentiary, as well as four honorary Canons, four choral Vicars, and other priests and clerics devoted to the divine ministry. The pastoral care of the Cathedral is exercised by the Canon-Parish Priest, assisted by the Vicars. There is a baptismal font in the Cathedral, the only one in the city, and several others are available, notably one with a depiction of the leg and foot of Saint Christopher, the city's patron saint, and the relics of the saints are decently preserved. In addition to the Cathedral parish, there are two other churches with baptismal fonts in the maritime and Mediterranean suburbs, three monasteries for men, one for women, eleven lay sodalities, and a hospital; but a seminary and a charitable institution are lacking. The extent of the diocese stretches sixty miles in length and seventy miles in width, and encompasses one hundred and fifty locations. The CATHEDRAL CHURCH is currently vacant, following the death of

Translated by churchlatin.ai, a product of Boyne Archives

the Most Reverend George Dubocowich, the last Bishop, who died outside of Rome; HIS HOLINESS has now nominated the Most Serene Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, for the position.

[*Latin ed. p. 186*]

186 From the Acts, in the manner of Royal Consistorial proceedings, by virtue of an Apostolic Indult, the Reverend Andrea Illich was presented to the aforementioned Church. He was born of legitimate, Catholic, and honorable parents in the city of Nova Pharensis, within the diocese of that place, and had already surpassed the forty-sixth year of his age. Ordained to the priesthood, and having previously received a doctoral degree in sacred theology, he has diligently applied himself to ecclesiastical duties. He has served as Professor of Moral and Dogmatic Theology in the central theological seminary of Iadrensi, as Counselor to the archdiocesan Tribunal for matrimonial causes, as Examiner and Pro-Synodal Judge, and as Consultant in ecclesiastical matters concerning appeals. He had previously been a Canon in the Metropolitan Church of Iadrensi, but has now relinquished that position. Pharos and Pharia, the island of Lesina in Illyria, has a city bearing that name, built on the western side of the island, which contains nearly three hundred houses and is inhabited by over two thousand people, under the temporary dominion of the aforementioned Most Serene Emperor and King. The Cathedral Church is quite spacious and has recently been restored. It is dedicated to the title of Saint Stephen, Pope and Martyr, and serves as a suffragan to the Archbishop of Iadrensi. Its Chapter includes two dignities, after the pontifical office, the first being that of Archpriest, and four Canons, including a theologian and a penitentiary, who are assisted by several priests and clerics in the performance of divine service. The care of souls in the Cathedral is exercised by the Archpriest, where there is a baptismal font, and where there are several relics of the saints, especially the body of Saint Prosper, the Martyr, the patron saint of the island. There is no other parish or collegiate church, nor a seminary, nor a house of mercy, but rather a certain establishment for men, and one for women, a lay sodality, and a hospital, to be found in the city of Pharensi. The extent of the diocese extends approximately one hundred and eighty leagues, and includes three islands.

The CATHEDRAL CHURCH of FOROIULIEN was vacant, having been freely and spontaneously relinquished by the Reverend Father Antonio Joseph Henry de Jordany, and accepted by the same [Holy See]: The Most Holy [Pope] promoted the Reverend Joseph Sebastian Ferdinand Terris to the aforementioned Church. He was born of legitimate, Catholic, and honorable parents in the parish commonly called Bonnieux, in the archdiocese of Avenionensis, and had reached the fifty-second year of his age. Ordained

Translated by churchlatin.ai, a product of Boyne Archives

to the sacred priesthood.

[*Latin ed. p. 187*]

From the Consistorial Propositions 187, he diligently applies himself to the exercise of ecclesiastical functions. He served as a parish vicar in Avignon, and previously in the city of Cavaillon, and until recently, he was the Parish Dean in the city of Carpentras. Foroiulium, a city in the province of Var, located near the Mediterranean Sea in a plain, enjoys the best of air, and is inhabited by nearly six thousand people, currently under French dominion. The Cathedral Church, of mixed and not very spacious construction, bears the title of the Most Holy Virgin Mary and of St. Leontius, the first Bishop of Foroiulium, and is a suffragan of the Archbishop of Aix. Its Chapter numbers nine titular Canons, among whom are a theologian, a penitentiary, and several vicars, who assist with the students of the seminary and the boys of the choir in their duties. The care of souls in the aforementioned Cathedral is exercised by the Parish Canon, assisted by three vicars, where there is a baptismal font, and where several relics of the saints are decently preserved. Furthermore, there is no other parish church, nor a collegiate church, but one monastery of men, and two monasteries of women, several lay sodalities, a large hospital, and two small seminaries; however, a house of piety is lacking. The extent of the diocese stretches for thirty leagues in length and twenty in width, encompassing several locations.

The CATHEDRAL CHURCH of CHILAPA, located in the Mexican territory of America, is vacant, following the death of the Most Reverend Ambrose Serrano, the last Bishop, who passed away outside of Rome. The Most Holy See has appointed the Reverend Thomas Baron and Morales, born of legitimate, Catholic, and honest parents in the parish commonly called Halzapan, within the Mexican Archdiocese, and who is in his forty-seventh year. Ordained as a priest and recently awarded a doctorate in sacred theology, he has diligently applied himself to the exercise of ecclesiastical functions. Having served as a parish priest in Cuernavaca, where he performed the duties of an ecclesiastical judge and a vicarious general, he was until recently a Canon of the Metropolitan Church of Mexico, from which he has now resigned, as well as from the secretarial duties of the same archdiocese. Chilapa, a city in the government of Guerrero, in Mexican territory, enjoys a temperate climate, extends for a quarter of a league, contains over six hundred houses, and is inhabited by nearly six thousand citizens. The Cathedral Temple, dedicated to the Most Pure Heart of the Most Holy Virgin Mary, is sufficiently spacious and worthy, and is a suffragan of the Mexican Archbishop.

[*Latin ed. p. 188*]

188 From the Acts, modeled after Consistorial proceedings, concerning

Translated by churchlatin.ai, a product of Boyne Archives

the deficiencies of the clergy, it is necessary that at least five canons be present, of whom, after the pontifical dignity, the first is the Archdeacon, and the other four are Mansionaries or Beneficiaries. Through a priest, or his coadjutor, the care of souls is exercised in the Cathedral, where there is a baptismal font, and several relics of the saints are decently preserved. No other parochial or collegiate church is found in the city of Chilapa, nor a monastery, nor a house of piety, but rather certain lay sodalities and a seminary. The extent of the diocese encompasses the entire government of Guerrero, and includes under its jurisdiction nine foreign vicarages, and sixty-five parishes. The CATHEDRAL CHURCH of CORDUBEN in America is vacant, due to the death of the Most Reverend Joseph Vincent Ramirez de Arellano, the last bishop, who died outside the Roman curia; the Most Holy [See] has appointed the Reverend Edward Emmanuel Alvarez to the aforementioned church, born of legitimate, Catholic, and honorable parents in Corduba, and established in the sixtieth year of his age. A priest, ordained and recently granted a doctorate in sacred theology, he dedicates himself to the ecclesiastical duties entrusted to him. The dignity of Archdeacon of Corduba has been conferred upon him in the Cathedral. The new Corduba, a city in the province of Tucumán in Argentina, in the southern part of America, is built in a fertile location, and contains almost forty thousand souls. The Cathedral Church, a structure of sufficient size and magnificence, boasts the title of Saint Peter, the Prince of the Apostles, and is a suffragan of the Archbishop of the Most Holy Trinity of Buenos Aires. Its Chapter includes four dignitaries, of whom, after the pontifical, the first is the Dean, then two canons without a theologian or penitentiary, two rationales, or those who hold a full prebend, and as many half-prebends, as well as other priests and clerics who serve the divine. Through two parish priests, the care of souls is exercised in the Cathedral, where there is a baptismal font, and several relics of the saints are decently preserved. No other parochial or collegiate church is found in Corduba, but there are three monasteries for men, and two for women, and a house for girls.

[*Latin ed. p. 189*]

From the Consistorial Decrees, 189: institutions for the instruction of the laity, a hospice, and a seminary are established, but not a house of piety. The diocese is sufficiently extensive, encompassing many places. The CATHEDRAL CHURCH of Medellin, within the jurisdiction of the United States of Colombia in South America, is vacant, following the death of the Most Reverend Joseph Isaza, the last bishop outside the Roman curia. The Most Holy Father has appointed the Reverend Joseph Ignatius Montoya to the aforementioned church, born of legitimate, Catholic, and honorable parents in the city of Medellin, and having reached the sixty-sixth year of his age. Having recently received Holy Orders, he has commendably exercised himself in fulfilling ecclesiastical duties, especially in performing

Translated by churchlatin.ai, a product of Boyne Archives

all the duties of a parish priest in Itagui. He was previously the Dean of the Cathedral of Medellin, and for that city and diocese, the General Vicar for spiritual matters, and Rector of its seminary, until now. The city of Medellin is located in a pleasant and healthy place within the province, commonly called Condina/Marca, of the jurisdiction of New Granada, or the United States of Colombia in South America, and is inhabited by over fourteen thousand Catholic inhabitants. The Cathedral temple, dedicated to the Blessed Virgin Mary, Mother of God, will be replaced by another, sufficiently convenient and new, under the invocation of the Immaculate Conception of the same Blessed Virgin; and it is suffragan to the Archbishop of the Holy Faith of Bogota. Its Chapter, which should consist of two dignities, namely the Dean and the Treasurer, as well as two honorary canons, four officials with a theologian and penitentiary, and finally two prebends and as many half-prebends, currently consists of only two dignities, of which the higher, after the pontifical, is the Deanate, with two honorary canons and as many prebends. The parish priest of the Cathedral, who cares for souls, fulfills his office within the Cathedral itself, where there is a baptismal font and where some relics of the saints are decently preserved. There is no other parish church found in the city of Medellin, nor a house of piety, but there is a religious house for women, several lay sodalities, a hospice, and a seminary. The EPISCOPAL CHURCH, under the Metropolitan Archbishop of Bogota, in the territory of the infidels, is vacant, following the death of the Most Reverend Paul Carnevali, the last bishop outside the Roman curia; the Most Holy Father has appointed to the same church, and as Auxiliary, the Reverend Vincent Arbelaes, the Archpriest of Bogota, and the Reverend Moses Higuera, born of legitimate, Catholic, and honorable parents in the archdiocese.

[*Latin ed. p. 190*]

190 From the Acts, in the manner of Consistorial Sessions, the Most Reverend [individual] of the Faith of Bogota, born and established in the thirty-fourth year of his age. Recently invested with the sacred order of the priesthood, he has admirably distinguished himself in fulfilling ecclesiastical duties, especially in preaching the Word of God and in receiving the confessions of the faithful, and has thus far served the parish of Succursu in the archdiocese of the Holy Faith of Bogota. The great city of Arabia Petraea still lies under the power of the infidels; therefore, its most miserable state, having passed in silence, the Most Holy [Pope] then, as is his custom, opened his mouth to the Most Reverend Cardinals Ledochowski, d'Avanzo, and Franzelin. Moreover, he placed upon the aforementioned Most Reverend Cardinals the ring of the cardinalate, assigning the presbyteral title of Saint Mary in Aracoeli to Most Reverend Ledochowski, the title of Saint Susanna to Most Reverend d'Avanzo, and the titles of Saints Boniface and Alexis to Most Reverend Franzelin. FROM 8. CONGREGATION OF THE COUNCIL

Translated by churchlatin.ai, a product of Boyne Archives

FOR DISPERSION: Nothing passes. On July 2, 1875. The priest Anthony, of the Royal Diocese, by a will publicly recorded on July 4, 1728, established as his heir for life the priest Peter, one of his nephews. He wished that, upon his death, his inheritance, or certain properties with a house located in the city of R., should constitute a sacred patrimony for a poor and pious priest; so that the legitimate sons of his nephews Stephen and Joseph, who were engaged in their studies, would not be present. He also left the power to the heir for life to assign the aforementioned patrimony to a suitable person, who should possess the qualifications established by him.

[*Latin ed. p. 191*]

Lacerationis nihil transeat 191. Foreseeing the case in which the priest Petrus might die while still living, and having previously designated a certain inheritance, and considering that the sons and grandsons, Stephen and Joseph, would not devote themselves to studies and letters, he then wished that the Archdeacon, the Prefect, the Chamberlain, and three other older Canons, according to the manner and form prescribed by himself, should be granted the aforementioned inheritance. However, if there should be sons born of a legitimate marriage from Stephen and Joseph who would dedicate themselves to studies after the death of the priest Petrus G., he ordered that these should succeed as hereditary usufructuaries of the lands and house pertaining to the aforementioned inheritance, until the age of twenty-one years. In the case where there were more than one such sons, he wished that the usufruct should be divided equally, and if any question should arise among them, it should be resolved by the Canon Chamberlain. He did not wish that those who had exceeded the age of twenty-one years should enjoy the aforementioned usufruct in a secular manner. Nevertheless, he wished that one who was incapable, or unsuitable, or who had given scandal, or who had been prosecuted civilly or criminally, should be excluded, even if descended from the aforementioned grandsons. Furthermore, he decreed that the inheritance should become vacant, not only by the death of the rector, but also if he himself should be provided with a sufficient benefice; however, this rule excepted the priests who were descended from Stephen and Joseph, his grandsons, through the male line. Finally, he forbade the cutting down of trees, unless first observed by the Canon Chamberlain for the time being, under a penalty of ten florins, and a penalty for decay on the part of the descendants. Thus, even though the testator had died, the priest Petrus G. acquired possession of the inheritance; after his death, Rinaldus G. enjoyed the inheritance, who, by virtue of a privilege derived from the will, retained the aforementioned inheritance, even though afterwards he was granted a parochial benefice. After him, another priest, Antonius G., acquired possession of the inheritance, who, in the year 1796, under the rule of the Gauls, and by force of laws enacted

Translated by churchlatin.ai, a product of Boyne Archives

by them, appropriated to himself, as a lord, the inheritance and its dowry.

[*Latin ed. p. 192*]

192. From the eighth chapter of the Civil Code, a certain Concini bequeathed a house, situated in the city of Patti, to his nephew, the priest Joseph G., as a sacred inheritance, and in his final will, he stipulated that the entire inheritance should be divided among the sons and daughters of his brother and sister, as if it were his own property. Consequently, these heirs sold the property, and divided the proceeds among themselves. The house, however, remained with the priest Joseph, who, after the division of the inheritance, considered the sum received from the priest Anthony as his own; therefore, upon his death on November 25, 1833, he bequeathed it in his will to his sister, Alba. However, the subcollector of ecclesiastical goods protested, threatening to claim the inheritance as belonging to the pious cause; Alba, in turn, invoked the laws of France. In order to resolve this dispute, for which considerable expenses would have been incurred, and also considering Alba's poverty, a certain agreement was initiated, with the consent of both parties, with the following terms and conditions: firstly, that the Reverend Chapter would grant to Alba G. the usufruct of the aforementioned house for the duration of her life, from the date of the agreement; secondly, that Alba G. would undertake to restore the aforementioned house in a suitable manner, and that, if she failed to do so, she would consent to be legally restricted in this regard; thirdly, that upon Alba G.'s death, the house would pass by right to the Chapter, which could, according to established procedures, choose a cleric who would enjoy it as part of the ecclesiastical patrimony. When Alba passed away in 1855, this agreement took effect; for the Chapter, exercising its right over the patrimony, appointed the priest M., who met the required qualifications; and upon his death in 1857, the patrimony was transferred to another priest. After his death as well, a few years later, the heirs of this inheritance obtained a pontifical indult, with the consent of the Chapter, by virtue of which they were granted the usufruct of the house for three years, due to the restorations carried out in it by the priest.

[*Latin ed. p. 193*]

No appeal shall pass. 193 By Italian laws (commonly called laws of emancipation), the Chapter, with the intervention of pontifical authority, received the inheritance. In the year 1873, while the Chapter was about to be conferred, certain descendants of the testator, residing elsewhere, having knowledge of the inheritance becoming vacant, asserted their right to the property. However, the Canons, who were called to the nomination of the Rector of the inheritance by the founder of the benefice, after examining the will and the aforementioned agreement, rejected all claims in favor of those asserting their rights, and conferred the inheritance upon the priest

Translated by churchlatin.ai, a product of Boyne Archives

John B., fulfilling all the requirements established by the testator. Hence, John G. opposed in the Ecclesiastical Court an impediment, alleging that no appeal shall pass, presenting his six-year-old son. Therefore, in these circumstances, a petition was presented to the Sacred Congregation so that it might deign to resolve the matter. A synopsis of the arguments. FROM WHAT THE CHAPTER PRESENTED IN ITS FAVOR. THE DEFENSE OF THE CHAPTER contended that the prayers of John G. should be rejected from three points: 1st, because the descendants of G. have lost the right of patronage in the benefice; 2nd, because of the agreement entered into by the Chapter with Alba G.; 3rd, because the extreme wishes of the founder are not verified in the testamentary documents regarding the aforementioned descendant G. It declared that the right of patronage had undoubtedly been lost; for the brothers of G., by means of unjust laws of the French Republic, sold property designated as belonging to the patronage, as if it were their own property, which is not disputed by anyone. But it is established by law that patrons who usurp, sell, and alienate property belonging to the patronage, lose that right. Thus, from the Council of Trent, Session 25, chapter 6, on reform, Session 22, chapter 2. Therefore, it is clear that the right of patronage in favor of the descendants of G. no longer exists, and therefore, the prayers in this case should be rejected. And this alone would have been sufficient, because, lacking the right of patronage, *Actct,j* volume IX, page C. 13.

[*Latin ed. p. 194*]

194. From the Sacred Congregation, it is useless and superfluous to inquire to whom such a right pertains. However, assuming that the descendants of G. have not lost this right of patronage, it is certain that the agreement entered into with Alba G. in the Chapter was an impediment to the acceptance of the cleric's vows. Indeed, Joseph G., as administrator of his own affairs and arbiter of his own will, on August 28, 1830, established Alba G., his sister, as his heir. Among the goods of the inheritance, there was a house which had been received by Joseph G. while Gallus was a soldier. Subsequently, a dispute arose between the Chapter and Alba G. regarding this house, and, as it is said, they came to an agreement. Therefore, by virtue of this private agreement entered into on February 15, 1837, Alba G. received the income from this house until the year 1865, when she died, and never made any claim. From that time until the year 1873, the Chapter peacefully exercised the right conferred by the aforementioned agreement. Therefore, it is clear that, by virtue of this agreement, the descendants of G. possess no legal right. Today, there can be no doubt about the validity and efficacy of this agreement due to the lack of ecclesiastical approval: 1.° because, after the lapse of a considerable time, it can legitimately be presumed to have been lost; 2.° because the silence of the family of G. for almost twenty years since the beginning of the transaction has deprived

Translated by churchlatin.ai, a product of Boyne Archives

them of any action, so that ignorance cannot be their defense, since the law favors the diligent, not the negligent. However, although the descendants of G. have not lost the right of patronage, and although the agreement entered into was of no strength or efficacy, and although the Chapter cannot be aided by the protection of prescription, nevertheless, the defense of the Chapter has not benefited the descendants of G., because in this matter, the extreme wishes of the pious founder are not verified in the testament. Indeed, from the records of the testament, and from the words added by the testator, it is clear that the will of the testator...

[*Latin ed. p. 195*]

Nothing should pass that the laceration [i.e., the will] stipulated that the inheritance, established by him, should benefit either a descendant or an outsider, provided that he was either endowed with the priestly office, or was about to receive the sacred orders. Furthermore, the son of John G. neither shone with the priestly office, nor was he about to receive the sacred orders, for the boy was then seven or eight years old. Therefore, since the requirements stipulated by the testator could not be fulfilled by the present son of G., the descendant, he could not have obtained the inheritance, and therefore, the prayers concerning the matter were to be rejected.

THESE ARE THE THINGS PRESENTED BY JOHN G. TO PROTECT HIS RIGHTS. This man immediately turned to the testamentary documents for his defense. From these, he said, it clearly appears that the pious testator had established two places of vocation for the enjoyment of the inheritance: 1st, he called, above all, the legitimate male offspring who would be born from his two nephews, Stephen and Joseph; 2nd, if these were lacking, he gave the right to six Canons of the Chapter of R. to draw by lot, among six poor priests, one who should enjoy the inheritance. He asserted that it was impossible, both according to sacred canons, and according to civil law and jurisprudence, to pass to the second place of vocation unless it had been conclusively proven that the first place of vocation had been completely exhausted. He then attempted to demonstrate that the first place of vocation still existed, showing that he and his son, Anthony, descended through the direct line of agnatic kinship from one of the two nephews whom the testator had named; and because, in law, it is certain that, in favorable cases, nephews and even the sons of nephews (i.e., great-nephews) are included under the name of sons, *L. Si filius*, *Iusta L.*, *Liberorum ff. de V. S. Donnell ad Tit. 28, Lib. 4 ad S. C. Maced*. He affirmed that such a legal interpretation was confirmed by the will of the testator, who, when speaking of unworthy heirs, wanted to include—

[*Latin ed. p. 196*]

196. From the Sacred Congregation of Councils, it was concluded that even if the descendants were to be excluded, the nephews would still be

Translated by churchlatin.ai, a product of Boyne Archives

included. Therefore, for the testator, the sons and nephews were the same. Such a will of the testator can also be gathered from the manner in which he wished to provide for different cases of vacancy; because he always preferred the male descendants over the two nephews. Indeed, when speaking of the second order of vocations, he always added: provided that the male descendants are present. Furthermore, when the Founder proposed a case of vacancy, either through death, or through another ecclesiastical provision, or through damages imposed on the benefice, he called for a priest to inherit if there was one among the descendants, then for the sons, and if there were none, he granted the nomination to six Canons. However, he never excluded the descendants in the presence of outsiders, even priests. Thus, it is established that this practice continued until the year 1855; at which time, for the first time, an external priest was nominated, because, as the records show, the line of descendants G was considered to have become extinct. Therefore, it was concluded that this was also to his advantage; and therefore, his prayers were to be considered as having been heard. With these matters noted on both sides, the presumption to be judged by the Eminences of the Cardinals was: Doubtful. Whether there is any reason to disregard the will in this case. RESOLUTION. The Sacred Congregation of Councils, on July 24, 1875, having considered the matter, decided to answer the proposed doubt with: Affirmative, and moreover, and in the mind; that is, the nomination of the priest B. is not valid, since he has already been provided for.

[*Latin ed. p. 197*]

Nothing should pass beyond the wound. 197 FROM WHICH YOU CAN GATHER: I. The Council of Trent placed under anathema all those who, by any pretext whatsoever, have seized the goods, possessions, rights, or revenues of a Church, or who have dared to prevent them from being received by those to whom they rightfully belong. II. Such usurpers are to be placed under anathema as long as the aforementioned goods, possessions, and rights of the Church, or of its administrators, are not fully restored, and afterwards, they obtain absolution from the Holy Pontiff. III. Furthermore, those patrons of a Church who have dared to do all these things, in addition to the aforementioned penalties, shall also, by the very fact, be deprived of their right of patronage. CONCERNING PENSIONS. February 27, 1875, and March 1876. Summary of the case. Pope Urban V, the Supreme Pontiff, established four ecclesiastical benefices in the Cathedral of M.; these benefices are called the Clericatus Capitularium, and their provision and collation belong to the Bishop for the time being, with the consent of the Chapter. In the year 1871, one of these became vacant, and the cleric B. obtained this benefice from the Ordinary, with the consent of the Chapter; however, this was under the condition that he obtain the Apostolic letters within one month, under penalty of its being void. He requested these

Translated by churchlatin.ai, a product of Boyne Archives

in due time. However, when the Sacred Registry was preparing to issue them, the Ordinary of M. (who had, however, obtained the consent of the aforementioned cleric) reserved a pension of 75 livres in favor of the priest Z. Consequently, the aforementioned cleric B., considering himself burdened, appealed to the Sacred Congregation of the Council to be relieved of the burden imposed upon him. Meanwhile, the time came when the aforementioned pension was not paid. Therefore, the priest Z. also appealed to the same Congregation.

[*Latin ed. p. 198*]

198. From the Congregation of Councils, a petition was presented, urgently requesting that the prescription of the Apostolic Letters be enforced. A concise summary of the discussion follows. It must be noted that the matter concerned the pension prescribed by the Apostolic Letters, which could not be granted without permission; and that, having requested this permission, the Most Holy Fathers graciously agreed to consider the case at the general meetings of the Congregation, with the preliminary question: "Whether it is permissible to open the matter." It should be noted that such a consideration is permissible only when either a falsehood has been suggested, or a truth has been withheld in the petitions. It seemed beyond doubt that this had occurred in the case under discussion; for the Ordinary himself admitted that he had made a mistake, albeit unintentional, regarding the amount of the income, when informing the Sacred Congregation. Therefore, referring to the text in Chapter "Super Uteris," regarding rescripts, in paragraph 6, the aforementioned consideration is permissible when there has been deception or concealment. However, on the contrary, it seemed not to be the case for such a consideration when neither a falsehood had been suggested, nor a truth withheld deceitfully. Indeed, if the cleric B. had consented to the imposition of the pension, unaware of the amount of the income derived from the aforementioned benefice, and had already for a long time performed the duties of sacristan in the same church, then it cannot be said that there was fraud or deceit. However, the question was discussed at the general meetings under two doubts presented at the end. WHAT CLERIC B. ALLEGED. In order to have the burden of this pension removed from himself, cleric B. alleged that his income from the benefice was so meager that, after deducting taxes, it barely amounted to forty scudi; and that if seventy-five scudi were to be deducted for the pension, only twenty-five scudi would remain, which would not be sufficient for a decent livelihood.

[*Latin ed. p. 199*]

Pension of 199. He stated that no one had been equal to him in seeking this position, nor in aspiring to the rank of ordination (which was imminent for him). He could not have foreseen such a deficiency in the stipend

Translated by churchlatin.ai, a product of Boyne Archives

attached to the office of Sacristan; since the stipend, however small it may be, and the Sacristan being removable at the will of the Superior, leaves him without any means of providing for anyone. The priest Z. certainly did not need this pension, as his income from two substantial benefices, from a parochial chaplaincy, and from another pension of ten scudi, combined, amounts to two hundred and twenty-five scudi. Therefore, the priest Z. does not show greed for money, but rather a need for honest sustenance, when he speaks of this small pension. For, as is testified by the Chapter, in addition to his domestic property, he enjoys a considerable sum of 1259 livres from the goods of the Church; whereas the benefice of the cleric B. does not exceed 279 livres. Therefore, recounting the history of the facts, the cleric B. showed that he had requested such a benefice, by the vote of the Chapter, from the Ordinary who had promised it to him. However, the Ordinary stated that the benefice granted exceeded ninety scudi, before issuing the letters of collation, and that he had obtained consent regarding the pension to be paid. When he learned that the benefice would scarcely reach forty scudi, the cleric B. made it known to the Ordinary that he would not accept it under such a burden. However, after receiving the letters of collation, given by the Ordinary without any conditions, the cleric B. stated that he received the Apostolic letters by which he was burdened with this pension. He resisted obeying them solely out of inability. The Ordinary repeated the Apostolic Letters to the cleric B.; relying on which, the priest Z. unjustly prosecuted him in a secular court. From these facts, the cleric B. deduced several points in his defense; first, that he had been misled by the Ordinary regarding the income of the benefice; and therefore, he was not...

[*Latin ed. p. 200*]

200 From the Sacred Congregation, it was determined that the matter had its due value. Then, since the prayers which the Bishop presented to the Holy Father for obtaining the reservation of the pension were based on a false premise, regarding the fruits of the benefice itself; hence, it was declared that the Pontifical decree was affected by a nullity. This was attempted to be proven from the Bishop's account, who candidly confessed that he had, in fact, fallen into an error, albeit unintentionally, regarding the amount of the revenues. Finally, it was observed that, even if the pension had been validly granted from the beginning, now there would no longer be a place for it; because it was granted to the presbyter Z., "until other provision is made for him," as the Apostolic Letters state. That presbyter having obtained a Capitular Benefice; therefore, it must be said that he has lost the pension by law.

FROM WHAT THE PRESBYTER Z. PRESENTED IN HIS FAVOR.

Against what has been stated thus far, the presbyter Z. noted that he was

Translated by churchlatin.ai, a product of Boyne Archives

summoned by the Ordinary before the cleric B. was granted the Capitular Benefice, and that the aforementioned benefice had been granted to him. He sent a messenger to him, because at that time he was performing the duties of a rural chaplain, but under the condition that some pension be granted to him. This the Ordinary conceded, granting such a pension to the cleric B., from whom he obtained consent for the imposition of that pension. However, the cleric B. is accused of falsifying the fact that the revenues of the Capitular Benefice amount to 300 *libellae*; whereas, they are certainly not more than 40 *scuta*. He also asserted that it is false that he receives 225 *scuta* from accumulated benefices; whereas, the sum of his revenues scarcely reaches 83 *scuta*, after deducting expenses and taxes. It is not true that the cleric B. was in need, because he is endowed with patrimonial goods, and with a double emolument, namely, the clerical and sacristan positions. Furthermore, he should not be believed in what he has presumed to deduce from the law. For, it cannot be said that the Ordinary led him into error regarding the revenues of the benefice.

[*Latin ed. p. 201*]

The pension was 201 florins. Since he had served for a long time as sacristan in the Cathedral Church, he could not fail to know what the revenues of the clerical chapters were, which are largely derived from the chapter's endowment. Moreover, the Apostolic Letters could not lose their force, since they were not based on false information provided to the Ordinary; indeed, this information was entirely lacking. On the contrary, the Letters could even demonstrate the opposite; if, for example, they state that the revenues of the prebend are reduced by 30 gold ducats from the treasury, not according to the Bishop's account, but according to the account of the cleric B. To prove his point, he said that cleric B. should have convinced the Pontiff that he had made a mistake in calculating the revenues of that prebend, and therefore the prescribed pension, being without foundation, should vanish into thin air. But he would have labored in vain; for the Pontiff considered that the revenues of the prebend did not exceed 30 gold ducats from the treasury; and believing this to be the case, he considered it just to impose a pension of 75 florins on the cleric. And therefore, no falsehood could have been found in the Apostolic Letters; since, according to the confession of cleric B., the revenues of the prebend amounted to approximately 300 florins; and, on the other hand, 30 gold ducats from the treasury were far below that sum. Therefore, if the Pontiff recognized the true revenues of the prebend, and considered it just to impose a pension of 75 florins, he would be unwilling to reject the Apostolic prescription. He presented further arguments to demonstrate that his revenues were fewer than those that the opposing party claimed he had; and that many of them were uncertain due to the interference of the Civil Government in Church affairs. From these additions and deductions, he concluded that cleric B.

Translated by churchlatin.ai, a product of Boyne Archives

was entirely obligated to pay such a pension, reminding him of the most serious words contained in the Apostolic Letters: "Nulli..."

[*Latin ed. p. 202*]

From the Sacred Congregation of Councils, "Therefore, it is entirely permissible for all men to disregard this page of Our will, or to dare to contradict it with reckless audacity. But if anyone should presume to attempt this, let him know that he will incur the wrath of Almighty God, and of the Blessed Apostles Peter and Paul." Having stated these things, and other matters having been considered by the Sacred Congregation, two questions were proposed. I. Whether it is permissible. II. To what extent, in the case of an opening of the mouth. Affirmative. Whether the imposition of a pension is permissible in the case. RESOLUTION. The Sacred Congregation, having knowledge of the matter, considered it proper to respond on February 27th. To the first, Affirmative. To the second, Negative. PROCEEDINGS OF THE CAUSE. Although defeated, the priest Z., not disheartened in spirit, requested the benefit of a new hearing, and was received. Thus, the controversy returned to the court with the following two questions. I. Whether it is permissible to adhere to or to retract from the decisions made in the first question in the case. II. Whether it is permissible to adhere to or to retract from the decisions made in the second question in the case. The same Sacred Congregation, after again discussing the matter, on March 4, 1876, pronounced the following judgment: To the first and second, adhering to the previous decisions and nothing more.

[*Latin ed. p. 203*]

203. CONSEQUENTLY, IT MAY BE GATHERED: I. That pensions imposed by Apostolic Letters must be entirely paid, so that if anyone, offering opposition, does not pay them, they will incur the most serious penalties. II. However, it can happen that a certain pension has been prescribed by Apostolic Letters, because either a falsehood has been suggested regarding the quantity of the benefit's income, or the truth has been concealed. III. In this case, those burdened by the pension cannot be freed from such an obligation, unless the Holy Tribunal, to which recourse is had, obtains permission from the Most Holy Father so that the matter may be discussed in the general Assemblies. IV. The Roman Pontiff sometimes grants such permission; namely, so that the dispute may be discussed in the full Assemblies in order to detect fraud or deception, provided, however, that a formula of doubt is first presented, concerning whether the opening of the matter is permissible.

REINTEGRATION AND RESTITUTION OF HONOR. December 11, 1875. Summary of the case. The priests C, D, and B, professors in the Seminary and College which are located in the Diocese of A, presented separate petitions to the Holy Congregation, requesting the following: That

Translated by churchlatin.ai, a product of Boyne Archives

their removal from the office of professors should not be declared valid at this time; because it was carried out without cause or reason; and because that removal lacked all form; since it was carried out without the advice of the Deputatus concerning the discipline of the Seminary; therefore, that their reintegration in their respective chairs should be ordered, as well as the restitution of their honor from the time of the unjust removal. The Bishop, as is customary, reported on the matter: The professors D and B had not been removed from office, but...

[*Latin ed. p. 204*]

204 From the Sacred Congregation, it was spontaneously dismissed; it had been a professor of Canon Law, and the granting of the benefice of Donatus to it was considered an impediment to its function, and therefore, by custom, it ought to relinquish the chair. The representatives of the Seminary were not heard, because the professors D. and B. were voluntary resignees; whereas, the professor C. was a lecturer in theology at the College, which has nothing in common with the Seminary; therefore, it was not necessary to hear it. A summary of the discussion. The patron of the professors observed that the teachings of the Seminary and the attached College were indeed ecclesiastical, but not permanent, but temporary and removable at the will [of the superiors]. He did not concede that such removability should be understood in such a way as to proceed arbitrarily and sometimes for the revenge of a superior. And because, according to Fagnano, Chapter on Consultations concerning sick clerics, it does not belong to the Supreme Pontiff to have absolute power to deprive lower clerics of their offices without cause. And he extended this necessity to the removal from those offices which have been conferred with clauses at will, at the will [of the superiors]. And he began to prove this with the authority of Rice, collections, decisions, 2011, n. 7 and 8. Indeed, the Sacred Congregation, as it seems, had foreseen the perpetuity of the office in the professors of the Seminary, as reported by Benedict XIV in the book of the Diocesan Synod, book V, chapter 11. When the Chapter of Salerno presented a doubt to the Sacred Congregation: Whether two canons elected by the Archbishop to establish the education of the students of the Seminary can be changed arbitrarily by the Archbishop. To which doubt the response was given: They cannot be removed except for a legitimate cause. And from this, arguments are presented in favor of the professors. But in this case, no just cause was found. For although the professor C. was granted the benefice of Donatus, it was burdened with many obligations; and...

[*Latin ed. p. 205*]

Having regained and resolved the honorary position, he obtained possession of it in the year 1872, and only received its income in 1874. Furthermore, Professor C. declared that he could not be dismissed from his

Translated by churchlatin.ai, a product of Boyne Archives

position, and that he should immediately relinquish the chair once he had been offered it; and that his predecessor, although holding one of the two most lucrative positions of that time, still performed the duties of a lecturer in moral theology at the college, even in advanced age. He presented more examples of this kind, stating that the dismissal from the magistracy, once a position had been offered, was entirely voluntary. However, as Piton, in *De controversiis patronorum*, alleges in section 17, number 9, it is not any particular fact, but rather a uniform and consistent practice, to which contradiction and acquiescence are added, that establishes the validity of voluntary and optional observances. Therefore, since neither the canonical provision nor the established custom have presented a just cause for the removal of the professor of moral theology, it follows that the restitution and resolution of the honorary position, from the day of the removal, should occur spontaneously. Regarding Professor B., the patron demonstrated that nothing had been concealed from him concerning his ignorance of oriental languages; and that, in order to successfully teach the sacred scriptures, he had made use of the commentaries of others. This is also supported by the example of other professors. Concerning the removal of the canonical professor D., the patron demonstrated that the Ordinary had imposed such burdens upon him regarding teaching in the Seminary, that he was required to renounce either the school or the choral duties. He declared that such removals were not only unjust and to be rescinded, but also illegitimate and null, due to the improper procedures followed, which were to be observed according to the law. The Council of Trent, in Session 23, chapter 18, concerning Reform, states that the Ordinary should inquire of the deputies of the Seminary regarding the administration of the same Seminary.

[*Latin ed. p. 206*]

206 From the Decree concerning the affairs of Councils. And although their judgment is not to be followed, it is always necessary, for the sake of prudent deliberation, to consult them, at least in more serious matters, under penalty, if otherwise acted upon, of nullity. Thus Ventriglia, in *Praxis Forensis Ecclesiasticae*, volume 2, annotation 29, concerning Seminaries, § unique, at the end; Crispin, *De Visitatione*, part 7, § 31, number 6. Monacelli, *Formulæ Iuridicae*, part 1, Title 12. Furthermore, the Sacred Congregation of the Council has repeatedly declared that the appointment and removal of teachers in a Seminary are acts of administration. This is found in the decrees concerning Salerno, which are in the *Liber Decretorum*, pages 22 and following. Also, in the decrees of the deputation of officials of the Seminary in Fondi, book 39, pages 129 and following. However, it is true that the Ordinary has never consulted the Seminary deputies regarding the removal of professors about whom they were deliberating. Therefore, the defender proclaimed that these removals were not only unjust, but

Translated by churchlatin.ai, a product of Boyne Archives

also illegitimate and null. It is objected that the canon was a professor in a College, while the Council of Trent speaks only of Seminaries; but in this case, the College and the Seminary are one and the same, according to the very institutions of the College. Likewise, nothing should be made of the fact that the canon abstained from school; because by doing so, he did not renounce the school, but only protested against a new schedule that was entirely unacceptable to him. Furthermore, nothing should be made of the testimonies given by the Ordinary, because, according to canon law itself, such testimonies are inadmissible, as stated in the chapter on witnesses: "Those who are produced by the accuser from his family are not suitable witnesses," and according to civil law, in law 24 and following on witnesses: "It is not permissible to question those witnesses whom the accuser has produced from his household." Finally, it is asserted that there is no doubt that Canon B. spontaneously relinquished his chair, nor did he resign. And that he was removed from the chair of Sacred Scripture, after the Seminary deputies had been dismissed; and that a few days later, he was removed from the chair of Church History; and that at that very moment, he was asking whether at least one of these positions would be left to him. Therefore, since the removal of these professors is null...

[*Latin ed. p. 207*]

Regarding the restoration and settlement of the honorarium [payment], 207, and considering what has been said, it seemed just that those who are to be restored to their positions should receive the full honorarium for the time during which they were absent from the school due to the removal, since "it should not be imputed to him through whom [something] does not stand, if he does not do what was to be done through him," chapter 42 of the regulations of canon law, in the third Cardinal [title]. Concerning Lucca, see discussion 18, on tutors, paragraph 3.

FROM MATTERS FAVORABLE TO THE ORDINARY.

The Ordinary's defender stated that, far from any other cause, three canonical professors had become known to the Bishop for attempting to incite rebellion against him, because there were not lacking priests who sought to corrupt the sound doctrine of the Church, especially in the instruction of youth. He asserted that these three canonical professors had, in a certain way, established a society to undermine the Ordinary's authority. He proved this with the testimony of the chapter of the cathedral church and of two parish priests. Furthermore, he asserted that these same professors refused to affix their names, when the entire clergy of that diocese had condemned the errors that certain members of the clergy had published in print. Therefore, by this action, those canons not only offended the Ordinary, but also the Roman Church itself, since they feared to show obedience

Translated by churchlatin.ai, a product of Boyne Archives

at a time when the Church had received a wound from the schismatics.

However, recounting the history of the events, the Ordinary's defender stated that the Canon C. had been dismissed only for this reason, namely, because he had obtained the highest position among all the canons, as is customary in other promotions. The Canon D., however, had not been expelled; but the Ordinary had invited him to observe the proper schedule for lectures, which he refused to do, but announced that he would leave his office. Finally, the priest B. had not been dismissed; but since he was giving two lectures, and the Bishop had previously stated that one of those lectures was to be given by Canon B. before the nomination of the Canon B., the Bishop reserved this matter to himself. However, the Canon requested a double honorarium for one lecture, and, upon being refused, he refused to perform his duty.

[*Latin ed. p. 208*]

208. From the Sacred Congregation, the advocate, having descended, addressed individually those present to recount the petitions and demonstrated, through the testimony of the deputies, that against Canon C., there had been as many resignations as promotions of precepts, according to the records of benefices conferred. However, he asserted that all of this had occurred outside of due cause; while Canon C., having been duly warned by the Ordinary of the necessity of resignation, responded that he was prepared to comply with the mandates, and that he requested nothing other than a residence in the college for a period of one year; which he obtained from the Prelate. Nevertheless, it is established that, once a resignation has been accepted, it cannot be revoked, except under certain circumstances, as stated in *De resignationibus*, book 1, question 12, number 1: "Unless the resignation has been accepted by a superior, it prejudices nothing, and begins to prejudice nothing, and one cannot repent and revoke the resignation." But, certainly, the matter cannot be considered complete after the lapse of eight months, after silence, after the nomination and possession of another. Regarding the other assertions made by this professor, the Bishop stated that Canon C. had obtained the revenues of a prebend six months before he left the school; and that these revenues amounted to 3566 *libellae* annually. He declared that those things which were said by Canon C. concerning the omission of the deputies' suffrage in his dismissal should be disregarded, and this for two reasons: firstly, because this form is prescribed only for Tridentine seminaries, and not for other colleges whatsoever; and secondly, because such a college has its own deputies, whom the Ordinary failed to question. Proceeding to Canon D., the Bishop's patron demonstrated, through the testimony of many, that he had given notice of his intention to abandon the teaching office to which he was assigned, and that he refused to follow the schedule of the seminary, which had been established by the Chapter itself. From these facts, it is clear

Translated by churchlatin.ai, a product of Boyne Archives

that it was proper to dispute the legality, the causes, and the form in the case of a voluntary abdication.

[*Latin ed. p. 209*]

Regarding the restoration and settlement of the honorarium, 209. Concerning Canon B., it was observed that he had been entrusted with a double chair, namely, the teaching of Holy Scripture and ecclesiastical history. However, in the very act of his nomination, he was warned that the Bishop himself would, at any time, be obliged to relinquish the teaching of Scripture. Nevertheless, for two years, Canon B. delivered lectures. Upon discovering his lack of expertise, the Bishop warned him that he would, according to his promise, deliver the other lecture. Here, Canon B. obeyed the Bishop's command, but demanded his usual stipend for both lectures, otherwise he would resign. The Bishop refused to grant the double honorarium, and thus accepted his resignation. If it were possible to speak of a removal, the following rule should be followed, as stated in Lucidi de visit. sacr. Um. vot. 2, page 365: "For, where it is determined that readers can only be removed for a just cause, it seems only prudent to take precautions lest they be removed rashly and altogether unreasonably." In this case, it is clear that no rash or unreasonable action was taken; both because of the reader's lack of expertise, and because the Bishop had previously reserved the teaching of Scripture for himself before the nomination of that professor. This could be said if it were possible to speak of a removal. However, since Canon B. had been warned of this eventuality in the very letters of his nomination, he accepted a precarious office from the beginning, to be relinquished sooner or later; and one cannot say that what was not given was taken away. Regarding the question of nullity due to the omission of the deputation's vote, it is said: "To propose an empty dispute, because it cannot be a matter of removal, and because, if the matter is just, any defect in the form, if any existed, would be removed by the word," as testified by the same Lucidi, loc. cit., page 382, n. 106: "If reasons have been given only to the Bishop, without the intervention of the deputation, although everything else may have proceeded properly, the act cannot certainly be said to be valid, and it would be better to confirm it with an Apostolic sanction." Acts, volume IX, page CVII. 11.

[*Latin ed. p. 210*]

210 From the Sacred Congregation. Nevertheless, the defense does not demonstrate that any shadow of fault existed in the case; because the Bishop could neither inquire into the matters concerning the deputies, nor was he obligated to do so. He could not, because the current deputies are most offensive to the Ordinary; he was not obligated, because he did not wish to acknowledge the authority of the present deputies; while these deputies have expelled from the Seminary other deputies who ought, by

Translated by churchlatin.ai, a product of Boyne Archives

law, to be permanent. Finally, the defense believed that the matter could have been handled in a different manner: namely, by recourse to the custom of the Diocese of A. Indeed, the Ordinary's defender attempted to prove, with various testimonies, that the custom of inquiring into the opinion of the deputies never existed in that Diocese, neither in appointments, nor in dismissals. These matters, brought forward from various sources, were intended to raise doubts. And whether the dispositions of the Bishop concerning Professors C. and D. are justified in the case. And whether, negatively, there is any basis for the reinstatement and restoration of the former honors in the case of B.

RESOLUTION. The Sacred Congregation, on December 11, 1875, after considering the case, deemed it appropriate to respond in the following manner:

To I: Affirmative, and furthermore.

To II: Provided for in the first point.

From these, it appears that:

I. Ordinaries are bound by the jurisprudence of the sacred canons to inquire into the opinion of the deputies of the Seminary, with regard to the administration of the same Seminary.

II. Ordinaries of places are bound, according to the form of the decree of the Council of Trent, Session XXIII, chapter 18, to choose deputies for the Seminaries; whose opinion they ought to inquire into, although they are not bound to follow it, either in establishing the rules, or in the election, admission, and expulsion of boys, as well as in the appointment of teachers, the visitation, and the administration of temporal affairs.

[*Latin ed. p. 211*]

Permanent Curates •211 I I. Nevertheless, Ordinaries of places ought to seek such counsel; but they are not bound to follow the same course; because the Deputies of Seminaries have a consultative vote, but not a deliberative one. I I I. Furthermore, from certain resolutions of the Sacred Congregation, it has been determined that the election of teachers in Seminaries constitutes an act of the administration of such places. I V. Therefore, for the election and removal of these teachers, the Deputies of the Seminary ought to be heard, so that it may be said that the act has been validly performed. V. In some cases, either such Deputies are absent, or they are so prejudiced and hostile to the Bishop that neither could nor ought to have their counsel sought. VICARS. On June 26, 1875, the Archbishop of X wrote to the Sacred Congregation, setting forth the following: In the parish church of St. John, there existed, from time immemorial, a clergy which was called secular and collegiate, and it was not possible to prove the antiquity of its foundation. This church had Primicers and thirteen hebdomadaries endowed with simple benefices, as the Sacred Congregation stated in the

Translated by churchlatin.ai, a product of Boyne Archives

case of Salerno, as reported by Chrisp., De visit., par. % § 31, n. 6. Similarly, in the case of Fundi, concerning the Deputies, Officials of the Seminary, on March 26, 1689, the following was debated: Whether the Bishop could and could appoint a Rector, and other Officials of the Seminary without the counsel of the Deputies appointed by the Chapter; the answer was: negatively. Finally, in Nullius, anno 1595, lib. 8, decret., p. 97, it is written: The Sacred Congregation judged that all four Deputies, of whom mention is made in chapter 18, session 23, ought to be consulted in the counsel, in the administration of the affairs of the Seminary, except in matters concerning the portion due to the Seminary, which faculty pertains only to the Bishop. If the Ordinaries do not seek the counsel of the Deputies, they easily render their acts invalid; because when a power is given to someone by law, and the same law adds that it should be exercised with the counsel of another, that counsel is necessarily required.

[*Latin ed. p. 212*]

From the Sacred Congregation for the Propagation of the Faith, concerning the care of souls. In the year 1692, through a Papal Bull of Innocent XII, the church was erected into a Collegiate Church, with a Chapter, a choir, a stall, a Chapter table, and all the other privileges proper to Collegiate Churches. Therefore, the Holy Father established the unique and primary dignity of a Primicerius [First Priest], and with him, thirteen Canons, whose favor preserved the privilege of exercising the care of souls among themselves in turn; but this was subject to a prior election, and with the elected undergoing examination and approval, under the supervision of the Ordinary. However, experience has shown that this practice of electing a parish priest for six months has rather harmed the good of souls than benefited them; and this was known to the preceding Archbishops and to the Sacred Congregation. For the Sacred Congregation, having been questioned by them, responded that they should take care that the election itself would fall upon the person who was worthy. Regarding all matters, the Archbishop insisted that a perpetual parish priest be established in that church, and he proposed certain things both concerning his institution and concerning the assignment to be given to him. And the Sacred Congregation replied: "Let it be noted on the record and let the Archbishop be notified that the cause must be presented in a full session of the Fathers of the Emorum and Ttevmorum [presumably referring to specific religious orders or councils], and therefore, let him warn the Fiscal of the Archdiocesan Curia and the Chapter, and let him assign them a suitable deadline to present their views, so that they may inform the Sacred Congregation of their further rights and of the results. After all matters were settled, the cause was presented with arguments from various sources, of which we will mention the most important. We, especially, believe it useful to say something about the manner of proceeding in causes presented to the

Translated by churchlatin.ai, a product of Boyne Archives

Sacred Congregation of Councils, which will be done by us in the appendix to be published shortly.

[*Latin ed. p. 213*]

Permanent Curates, 213. A concise discussion. THOSE ARGUMENTS PRESENTED IN FAVOR OF THE ARCHBISHOP'S PROPOSITION. It was argued that the new method of permanently attaching the canonical care of souls would not only be in accordance with the ancient discipline of the Church, with the provisions of law, and with the decrees of Trent, but also with reason. Regarding the ancient discipline of the Church, evidence was presented from Thomassin, *De V. et N. Eccles.*, Disputationes, part. i, book 2, chapter 27, paragraphs 4, 5, and 6. Regarding the Decretals contained within the Corpus Juris, the following were cited: Chapter 3, title 28, book 1, and Chapter 1 concerning monastic burials, in book 6, and Chapter 30 concerning those who are to be assigned. Finally, regarding the decrees of Trent, the following were recalled: Chapter 13, Session 21, concerning Reform, and Chapter 7, Session 7, concerning Reform, where the Holy Synod strongly encourages those in charge of cathedrals or collegiate churches to commendably exercise the care of souls through suitable vicars, even permanent ones. The removability of parish priests does not only contradict written law, but also reason; for the Council of Trent prefers permanent parish priests to those who are removable, so that they may be able to know their flock. The Sacred Roman Rota, in Decision 53, *coram* Peutinger, paragraph 10 and following, and the Sacred Congregation of Councils has repeatedly confirmed this doctrine, especially in *Nullius* or *Montis Casini*, January 25, 1726, and in *Sarnen*, July 7, 1731, and in many other instances. Against this legal opinion, it was argued that any contrary custom does not suffice, as stated by Gonzalez in *ad Reg. Cancell.*, Glossary, 5, § 5, paragraph 60; and by the Rota in *Toletana Iuris Nominandi*, November 29, 1582, *coram* Bianchetto. And this was especially true when it came to preventing inconveniences caused by the Archbishop in the matter at hand. Therefore, the Archbishop proposed that as soon as a canonry became vacant, the Chapter should present three priests.

[*Latin ed. p. 214*]

From the Sacred Canons of the Council, it was fitting that suitable candidates be chosen, and that the choice be reserved for themselves, and that the chosen one, after being examined, as the other parish priests are, should also be subjected to examination. Once the chosen one has been proven suitable, this parish priest would remain immovable and would receive the canonical benefit, which is always united to the parish priest for the duration of his tenure. THIS CHAPTER RESPONDED. Whatever may be the case regarding the ancient discipline of the Church (the Chapter stated), it has been certainly and thoroughly investigated that the removability of

Translated by churchlatin.ai, a product of Boyne Archives

a Vicar Parochial does not contradict either common law, nor the Council of Trent, nor reason. For the text presented by the Archbishop speaks in very different terms, namely, of priests presented by monks to the Bishop to be instituted. Benefits which are granted in perpetuity and in which the institution does not lapse, are called and are perpetual. Those, on the contrary, which are assigned at the pleasure of someone and in which no institution lapses, but only simple approval is required, do not pertain to a title, but to a bare exercise; and therefore, those who possess them are removable without any legal impediment. Much less does the removability of parish vicars contradict the decrees of the Holy Council of Trent. Firstly, the Holy Synod considers a very different case in Chapter 15, Session 24, concerning Reforms, namely, parish churches which have no fixed boundaries, and in which the care is administered confusedly and promiscuously. And even in this case, a perpetual rector is not strictly prescribed, provided that he is certain; but an alternative is proposed through the words "or, in a more suitable manner, as the quality of the place requires, they shall provide." This is further confirmed by the disposition in Chapter 7, Session 7, concerning Reforms, in which it is prescribed that 1.° the care of souls in benefices attached to cathedrals, collegiate churches, or other churches, which are perpetually united and annexed, must be exercised by a certain and determined Vicar, 2.° and that the Vicar can be appointed by the Bishop even perpetually. From these things, it cannot be inferred that the removability of Vicars contradicts the Council of Trent, and it is only * according to and reasonably...

[*Latin ed. p. 215*]

It is possible for perpetual vicars to be established in 215 cases, provided that there is a reason for introducing a new method where an old one already exists. This theory is presented by Piggnatellium in Volume 3, Consultation 143, number 14, and is confirmed by the Decree Rotam Decis. 1082 before Molines, numbers 27 and 28. That this matter should be adapted to the specific circumstances is evident from the nature of the Collegiate Church of St. John the Greater, where the constitution for perpetual vicars would be contrary, since the care of souls does not pertain to the College or Chapter through the means of union and accessory, but rather primarily and from its original establishment; in this case, the opinion of the canonists is clear. Ventriglia, *Praxis rerum notab.*, Part I, annotation 20, § 2, number 4, states: "In the care of souls pertaining to a Chapter, College, Benefice, or other pious institution, not through the means of union, but from the original establishment, or by some other means, a perpetual vicar cannot be considered, because it would not be according to the intention of the Chapter *Extirpandae* and the Council of Trent, and the constitutions of St. Pius V, which also speak in terms of unions." The opinion of the canonists is confirmed by the Sacred Congregation of Councils in its re-

Translated by churchlatin.ai, a product of Boyne Archives

sponses in Baren, *Curae animarum*, February 5th and August 27th, 1703, and in other documents. Therefore, it does not seem right to suppress the removability in this case, since right reason commands that nothing be taken away from those things that have been rightly established. And that the removability has been rightly established is evident from the fact that no inconvenience has been deplored in its application: indeed, a good result is to be expected, because the vicars, fearing expulsion, will serve the Church more diligently.

WHAT WAS PRESENTED IN THE FISCAL VOTE.

Everything was received with the fiscal vote, and what the Archbishop had proposed was approved. And, above all, the Council of Trent, Session 7, Chapter 7, on Reform, grants the faculty to Bishops to visit and diligently provide for ecclesiastical benefices that are united and annexed to cathedrals, colleges, etc.; and the words of the cited chapter are explained by the Doctors in such a way that the appointment of a vicar, whether temporary or perpetual, is left to the judgment of the Ordinary.

[*Latin ed. p. 216*]

From the Sacred Congregation, Decree 216, concerning directing according to circumstances. Barbosa, *Iuris Ecclesiastici Universalis*, Book 3, Chapter 3, paragraph 12, and in the notes to Chapter 7, Session 7 on Reform, paragraphs 15, 31, 33. He also cited the Constitution of Pope Pius V, *Et si omnibus*, of November 5, 1571, by which Motu Proprio he established eleven perpetual vicariates in as many basilicas and churches of the Most Holy City, with the assignment of portions and revenues for each of them, and he especially emphasized the reason given by the Pontiff for the new order, which was that the perpetual vicars should more diligently and vigilantly care for souls. Fagnani invoked the authority of the author who, in Chapter 6, from the section on the Office of Vicars, numbers 14 and following, showed that perpetual vicars provide a more useful service to parochial churches than temporal vicars; and it is fitting that the Apostolic See decree that Chapters of cathedral and collegiate churches, which have the care of souls and exercise it through temporal vicars, should be compelled to appoint perpetual vicars who will undertake that care. (Fiscale continued, "This doctrine demonstrates its equity and truth; experience teaches that the appointment of a temporal vicar often causes discord and contention in the Chapters, and sometimes, even without cause, those who are actually useful to the Church and to the care of souls are removed, because of private affections.") Furthermore, those who are removable do not love the Church, nor do they diligently care for the flock, since they do not consider it their own. "Now, perpetual vicars, without the erection of a title," [Verbum Constitutionis] "Therefore,

Translated by churchlatin.ai, a product of Boyne Archives

we have deemed it fitting that in each of the aforementioned basilicas and churches, individual perpetual vicars be appointed, to whom a suitable portion of the fruits is assigned, so that they may be honorably sustained, as has been established in the Council of Trent and in other matters by our own letters; and that they should care for souls with such diligence, so that they may know that this care truly belongs to them and is incumbent upon them." The words that Fiscale invoked were these: "Therefore, we have deemed it fitting that in each of the aforementioned basilicas and churches, individual perpetual vicars be appointed, to whom a suitable portion of the fruits is assigned, so that they may be honorably sustained, as has been established in the Council of Trent and in other matters by our own letters; and that they should care for souls with such diligence, so that they may know that this care truly belongs to them and is incumbent upon them."

[*Latin ed. p. 217*]

Perpetual Curate Vicars: 217. Parishes cannot be established according to the traditions of the barbarians. Collect. Doctor, in Conc. Trid. n. 17, therefore, it is proposed to the Archbishop that a Vicar be invested with a canonical benefice in the Church of St. John; and, according to the norms of the Constitution of St. Pius V, *Ad exequendum*, of November 1, 1567, the right be granted to the Collegiate Canons of the same Church to present three priests suitable for the exercise of the care of souls, among whom the Bishop shall choose, but not before they have been found capable and approved in an examination. These points having been presented, the matter was put to a question. Whether and how the institution of a perpetual curate should be approved in this case. RESOLUTION. The Sacred Congregation, on June 26, 1875, considered that the matter should be resolved by a rescript: Affirmative, according to the requests of the Archbishop, and according to the rules for the administration and collection of goods and revenues, which are to be proposed by the Chapter and approved by the Ordinary. FROM THESE THINGS WHICH YOU, WHO READ THIS, WILL UNDERSTAND: I. From the teaching of the Holy Canons, perpetual vicars, besides those who are always removable, have always been commended. II. After the decrees of the Council of Trent, removable vicars have become obsolete, because experience has shown that perpetual vicars are more useful to the souls of the faithful. III. Nor is the exercise of the care of souls better commended by turns among the Canons of Cathedral or Collegiate Churches. IV. In this case, the Sacred Congregation, with regard to those matters which concern the administration of goods and revenues, has referred the matter to the Chapter, regarding the proposal, and to the

Translated by churchlatin.ai, a product of Boyne Archives

Ordinary, regarding the approval.

[*Latin ed. p. 218*]

FROM THE DECREES OF THE HOLY CONGREGATION, THROUGH THE LEGATES OF BISHOPS AND REGULAR CANONS, CONCERNING THE REMOVAL OF A MORTGAGE AND RESTITUTION. Dated March 10, 1876. Summary of the Case. Vincent L., having filled the pages of his life with virtuous deeds, and being a pious man, on July 28, 1804, made the following dispositions regarding his affairs. He left the ownership of his property to certain individuals closely connected to him (from whom Charles Philippus D. S. was descended); he established the full usufruct of said property for the benefit of his wife; and he established a bequest of 200 guilders for the Brotherhood of the Most Holy Virgin Crowned of Saint John, to be paid by the owners of the property after his death. He wished that the beneficiary of the bequest should be obligated to celebrate two Masses annually at the altar of the Most Holy Virgin on the Feast of the Assumption; and he ordered that from said 200 guilders, an endowment should be established for the benefit of the same Brotherhood. Shortly after the testator, Vincent, had passed away, certain members of the Brotherhood suspected that there were irregularities in the accounts of expenses and receipts from the deceased (who had been the administrator and treasurer of the same brotherhood), and they sought the return of the deposited funds. From these investigations, it was discovered that the deceased owed the Brotherhood 614 guilders, 02, 5, in addition to thirty gold coins. It is known that this sum was immediately paid by the heirs to the new treasurer; however, it remained subject to the condition that the accounts of expenses and receipts would be subjected to a new examination. This, however, had never been carried out for various reasons.

[*Latin ed. p. 219*]

In the year 1821, the legatees of Pius, concerning the abolition of the mortgage and the restoration, transferred the usufruct of this life to the widow; and the Pious Sodality requested 200 scudi to establish an endowment, with the obligation of two Masses. The heirs, not giving anything to the legal representatives against the Confraternity, obtained for two years the requested permission to retain 200 scudi; however, they were to pay 10 scudi for each year, in a ratio of five. Nevertheless, for a very long period, the heirs did not provide the funds (although they were repeatedly brought before the courts for this purpose), nor did they repay the agreed-upon income; in the year 1857, the Ordinary ordered that the aforementioned account of expenses and receipts, completed in the year 1804, be subjected to a new examination. For the Ordinary had learned of a cause that had given rise to doubt concerning the truth of these accounts, a cause for which the heirs had refused to pay. And indeed, from this new inves-

Translated by churchlatin.ai, a product of Boyne Archives

tigation, it was determined that the inheritance of the pious testator was due to the Confraternity a sum of 91, 17, 2 scudi, in addition to 50 scudi in bronze coins; and thirty gold coins, and the annual value in scudi of five gold coins; so that the total amount reached 211, 17, 2 scudi. From this, it was discovered that the inheritance had repaid to the Confraternity a very large sum that was due. Furthermore, it should be noted that, in the collapse of a certain wall, two years after the testator's death, two small boxes were found in which were, in addition to various religious insignia, several gold and silver coins; perhaps these were hidden by the pious testator, so that they would not be taken away by a probable robbery. For it was a time when the French sedition was tearing apart Italy. With these newly discovered facts, Charles, D.S., in February 1874, having recourse to the Holy See, presented: a secret plan of the Confraternity, as a foundation for a new settlement, a consequence of the new examination. From this, it could be gathered that the inheritance had repaid such a debt that not only was the payment of 200 scudi not yet completed, but also that a debt had been established towards the Sodality. Therefore, earnestly...

[*Latin ed. p. 220*]

The Congregation of Bishops and Regular Canons requested the Holy See to decide whether the Sodalitium S. Ioannis should grant its consent to the cancellation of all mortgages registered on its own properties, in favor of the Sodalitium. The Ordinary, as is customary, was asked to express his opinion, and presented the following proposal: he believed that Count N. (with whom valuable objects had been deposited and lost) should pay 50,000 scudi, the value of said objects; of this sum, a portion should be given to the orator Charles Philip D. S. for the cancellation of mortgages and other expenses; and the remaining portion should be given to the Sodalitium, which would fulfill the obligation of two Masses per year, and would grant its consent to the cancellation of all mortgages. Furthermore, the Ordinary reported that the president of the Sodalitium had been granted by its members the authority to sign the document by which the mortgages would be cancelled; and that, provided the orator notified the owners of the objects of the payment of their value, the Sodalitium would fulfill the obligation of two Masses per year.

A summary of the arguments.

THOSE THAT OBJECT TO THE COMPENSATION.

It should be noted that a similar controversy was discussed in the year 1861 by the Congregation of Bishops and Regular Canons, using a series of questions: in the first of which, it was asked whether and how the decisions of the syndicators of the year 1804 should be followed, or whether that decision should be subjected to a new examination. The aforementioned

Translated by churchlatin.ai, a product of Boyne Archives

Congregation considered it appropriate to respond: negatively to the first question; affirmatively to the second. From this, it could be inferred that, even if such a new examination of the reasons of both parties were admitted, it would also be necessary to admit that the benefits of the undue sum paid by the heirs had accrued from the year 1861; because only in this case would the Sodalitium become a debtor to the inheritance. However, it is not permissible to admit a compensation to the effect of cancelling the mortgage by the Sodalitium; because it is not permissible to make a compensation between a liquid debt and a sum of money that is not liquid, which constitutes the debt in its entirety and by itself.

[*Latin ed. p. 221*]

The decrees concerning the cancellation of a mortgage and the restoration of property are not applicable in this case. For it is a principle, established by both canonical and civil law, which admits of no dispute, that compensation between a liquid and an illiquid claim is not permitted. See De Luca, *De Cred.*, disputation 48, number 5; and, therefore, the right of retention is excluded when the claim is illiquid, as cited above. Author. *De Comb.*, disputation, number 10. Indeed, generally speaking, compensation is excluded with respect to a monetary claim, if another claim exists alongside it, which, either by its very nature or by express agreement, is certain and productive. See De Luca, *De Dote*, disputation 161, number 39, in a related matter, where the author presents the principal theories that govern the right to legitimate compensation. "However," it is important to examine whether compensation is excluded due to a lack of will, or due to a lack of power; for if a defect of power is present, and this is considered to be for the protection of a third party, as mentioned above, then compensation will have its effect, so that those who are obligated to compensate should not, by using their claim, which is considered in terms of their own benefit, derive an advantage from their creditor, when they are, for another reason, prevented from releasing him, at least as if it were a damage arising. But if the defect is of will, then the effect is that which is received in the Roman Curia, but which is considered too harsh elsewhere, namely, that if one debt is productive, and the other is monetary, then, even though the first produces fruit to the benefit of the creditor, nevertheless, the debtor is in an equivalent position to his debtor because of the power that his creditor and, respectively, the debtor had to demand the payment of the unproductive monetary debt, as was decided in the case of Lovellen. Corrado, and more clearly in the same decree of May 26, 1653, *cor. Peuc(ting*, in which a man was obligated to restore the dowry to his children of his first marriage, as heirs of his mother, and he was also a creditor of those same stepchildren in certain properties. And the Rota states that, in the meantime, while the man omitted to make this restoration, the fruits of the properties were accruing

Translated by churchlatin.ai, a product of Boyne Archives

to his benefit, and, conversely.

[*Latin ed. p. 222*]

222 From the Apostolic Constitution "Episcoporum et Regularium," the debt of the aforementioned individual, as if it were a monetary obligation, bore interest, as is stated in the aforementioned document, section 68, etc. It is clear that the legacy of two hundred scudi would truly be profitable, based on the expressed will of the testator, who ordered that from this sum, a fixed annual payment be established in favor of the Sodalitium. Furthermore, it is a rule of jurisprudence that a pious legacy, intended for the fulfillment of obligations, should be invested in a productive asset; this is confirmed by numerous rulings, especially Decree 65, section Ansaldo, number 29, and Decree 61, section Riminaldo, number 8, where it is stated: "For this disposition, both with regard to the usufruct and with regard to the celebration of Masses, could not have effect, unless the sum were placed in a productive asset." Indeed, it is prescribed by the decrees of the Sacred Congregation that money intended for the expenses of Masses should be invested in real estate. Therefore, it is equally clear that the Monastery should not be acquired, nor should pensions be paid, and it is therefore unchangeable that the heirs of the contract with Ferrari are obligated to return the fruits to the Monastery. Consequently, even setting aside the already established judgment, it is clear regarding the legacy of two hundred scudi, that the fruits should be returned. On the other hand, this is not so certain regarding the amount deemed excessive, which in itself is nothing more than a simple loan. And regarding this, the provisions of canon law are clear, intended to restrain the greed of usurers. And the Romans themselves, in their natural honesty, if they conceded interest, considered it to be different from a contract for the restitution of a lost item. Thus, Pomponius I, in "De Usura," section 121, regarding the meaning of the word "usura," states: "The interest on money received is not a profit, because it does not arise from the substance itself, but from another cause, that is, from a new obligation; for, as a learned scholar has pointed out regarding this matter..."

[*Latin ed. p. 223*]

The decrees concerning the cancellation of a mortgage and the restitution of property, number 223, do not arise from money, but rather like fruit from a tree, or grass from the earth. And Cuiacius, Volume 3, page 978, title 2, in the laws of Cento, number 8, notes the following: "This is demonstrated by Africanus through a comparison of a usury agreement, in which there are two stipulations: one concerning the principal, and the other concerning the interest." Therefore, two contracts were required for the one who lent money; and the first contract was the loan itself, which concerned the sum to be repaid; the second was either for lost profits or

Translated by churchlatin.ai, a product of Boyne Archives

for damages incurred. From these, it can be inferred that the consent of the association is not required, nor can it be considered, for the cancellation of mortgages, as long as this does not prejudice the interests of the pious foundation.

FROM THOSE THAT ADVOCATE FOR COMPENSATION. On the other hand, the reasons presented by Charles Philip, D.S., in favor of admitting compensation, in order to effect the cancellation of the mortgage, have been of no less importance. This is especially evident if the principles of law are joined with the facts, that is, the repeated protests against the examination of accounts carried out in the year 1804, and the confession of the association itself; for there is no greater proof than the confession of one's own mouth. Granted that the heirs have repaid the sum of two hundred scudi, so that they themselves become creditors; it seems that they could have demanded the relative profits from the year 1804; since it cannot be supposed that they intended to relinquish the unproductive sum owed. For it is well known that compensation is a contribution of debt and credit to each other, as stated in I. 1, ff. de compens., and more explicitly in I. 4, end of the Code, in the same title: "Compensation is the extinction of a debt by another creditor's debt, from the time when both exist, by the common effect of mortals, made effective by the authority of the law." And Strickius more concisely states that compensation is not a product of Roman law, but rather the natural intention of the debtor to extinguish one debt with another, if the creditor becomes the one who recovers his own debt. Diss. 22, n. 16: "But this is not merely Roman law, but rather a law of any debt..."

[*Latin ed. p. 224*]

^24 From the Sacred Congregation of Bishops and Regular Canons, the intention and desire is that, from the time that the creditor owes something in return, he should be released from the obligation; therefore, the Roman laws have expressed and confirmed this common desire of men. And if this were not the case, equity itself would sufficiently demonstrate it. However, the law itself introduces compensation only through the presumed will of the one whose interest is involved. To this equity, the decisions of the Sacred Roman Rota correspond, which hold that the greatest consideration is that interest should be due by title of damage from the one who retains the money which should have been invested. Among others, the recent paragraph 17, December 227, number 8 states: "It is evident that justice demands that D. Ducem should pay the interest accrued from the day on which he withdrew from the Monte [of Piety] 2000 scudi, which he was obligated to leave in said Monte; it is just that he should be held liable for the interest." From these and other authorities, it is deduced that the Brotherhood has been enriched by the undue receipt of money; thus, restitution should be demanded even with respect to good faith. Since the

Translated by churchlatin.ai, a product of Boyne Archives

money given to the Pious Fund is intended to be invested securely and profitably, the increase in accrued interest follows the amount repaid. If such a theory could be admitted since the year 1804, it should prevail even more strongly since the year 1861, when the Sacred Congregation of Extraordinary and Regular Canons judged that an examination of accounts should be instituted. For equity itself suggests that the testator did not intend to leave an unproductive sum with the Brotherhood; whose interest could have been compensated by the fruits. And here, considering equity, the theory of "diminishing damage" seems to be applicable; and recourse should not be had to the *leges castrenses*, which cannot have great weight with the Church, which is the guardian of equity and justice. Regarding valuable objects found after the testator's death, the Brotherhood has based its legal and factual action on presumptions. 1.° Because the pious testator, as a depositary of the Brotherhood, retained all objects belonging to the Brotherhood without any distinction, and of pious persons,

[*Latin ed. p. 225*]

The legatees of Pius accepted 225 offerings concerning the cancellation of the mortgage and the restitution. 2. He argues from the nature and purpose of votive objects; it seemed unlikely that the testator had purchased them for himself. 3. He argues that, given the multitude of such objects, they were intended for the Church, and certainly not for the private use of the family. Charles Philip D. S. argued to the contrary that the objects in question had been deposited with the Knight "IN", with the intention of ascertaining whether they belonged to the Sodalitas. For, without proof to the contrary, it should be presumed that they belonged to the deceased, in whose house they were found. The Sacred Congregation of Extraordinary Affairs and Regular Canons indicated in 1861 that evidence should be sought to support the claims; however, the Sodalitas presented no further arguments; therefore, the principle prevailed that the plaintiff, not proving his claim, could not bind the defendant to restore the objects or their equivalent in money. Thus, in such cases, freedom should always prevail, as taught by Averan, Interp. Iur., books IV and VII: "We must follow this, both in stipulations, and in legacies, and even in judgments: it is right, because we ought to be more inclined to release than to bind." L. Arianus 47, ff. de oblig. et action, and for the same reason, more inclined to diminish than to increase an obligation; for it is fitting to favor the debtor more than the creditor, in accordance with the innate benevolence of man towards man, as in L. 26 ff. de reb. dubiis. With these and other considerations presented by both sides, the Supreme Sacred Council proposed the following two questions for resolution. I. Whether and in what manner the Apostolic Beneplacitum should be interposed to grant the cancellation of the mortgage on a legacy of two hundred scudi, and the respective fruits, in this case. Acts, volume

Translated by churchlatin.ai, a product of Boyne Archives

IX, page 15.

[*Latin ed. p. 226*]

226 From the Sacred Congregation of Bishops and Regular Canons, Instruction 11. Year, and concerning how and to which persons valuable objects deposited in a case should be restored? RESOLUTION. The Sacred Congregation, having knowledge of the matter, responded on March 10, 1876, as follows: To the first question: Affirmative. To the second question: According to the will of the Bishop, for the division into two equal parts and with the understanding that: it is to be considered that all accounts of receipts and expenses have been settled between the parties; that the debt of Caroli Philippi, Doctor of Sacred Theology and Member, is to be extinguished; and that the obligation of celebrating Masses perpetually shall remain with the Sodalitas, to be inscribed in the Sodalitas's ledger; and furthermore. THEREFORE, IT MAY BE INFERRED: I. That compensation is a contribution between debt and credit. II. That compensation, from the Civil Law perspective, does not arise from Roman Law; but rather from the debtor's will and natural intention, so that from the time that the creditor owes something to him in turn, he is freed from other debts. III. Therefore, the law itself does not introduce compensation except according to the presumed will of him whose interest is involved, thereby expressing and confirming such a common human desire. IV. Furthermore, the decisions of the Sacred Roman Rota also provide a significant principle, which states: that interest is due by title of damage from the one who retains the money, which should have been invested. V. In this matter, it appears that the Confraternity has been made richer through the fruits of the money improperly received; therefore, with regard to good faith and equity, restitution should also be included.

[*Latin ed. p. 227*]

FROM THE HOLY CONGREGATION OF RITES IN NUSCO. The priest Raphael Vecchi, Editor of the Calendar for the use of the Diocese of Nusco, has earnestly requested a clarification regarding the following doubts:

Doubt I. Aloisius Maria de Carpo, in the Perpetual Calendar, Chapter V, Concerning Concurrent Feasts, number 11, states: "That in the case of concurrent feasts of the same rite, but of different rank, the feast of higher rank should be celebrated in the Vespers, according to subsequent decrees, even if the feast of lower rank has objective dignity; for example: In the Kingdom of Naples, on the 4th of August, the Feast of Saint Dominic, as principal feast and patronal feast, of double major rank, coincides with the Feast of the Immaculate Conception, also of double major rank." Also, "In the Diocese, the Feast of the Mother of the Divine Shepherd, assigned to Sunday, the 4th of October, coincides with the Feast of Saint Raphael the Archangel. The Feast of Saint Joachim, the Father of the Blessed Virgin

Translated by churchlatin.ai, a product of Boyne Archives

Mary, when transferred, coincides with the Feast of the Holy Name of the Blessed Virgin Mary, and the Feast of the Sacred Heart of Our Lord Jesus Christ coincides with the Feast of Saint Barnabas the Apostle."

Given these circumstances, the question is: In the aforementioned cases, how should the Vespers be ordered, concerning Saint Dominic, Saint Raphael, Saint Joachim, and Saint Barnabas, as feasts of higher rank, or concerning the Immaculate Conception, the Mother of the Divine Shepherd, the Holy Name of the Blessed Virgin Mary, and the Sacred Heart of Our Lord Jesus Christ, as feasts possessing dignity, but of lower rank?

Doubt II. Are the Feasts of the Blessed Virgin Mary, the Seven Sorrows, in the months of March and September, both feasts of primary rank, or of secondary rank? And are the primary feasts of the Blessed Virgin Mary limited only to the seven solemnities, namely, the Purification, the Annunciation, the Visitation, the Assumption, the Nativity, the Presentation.

[*Latin ed. p. 228*]

228 From the Sacred Congregation of Rites, and from ConcepciÃ³n? Provided that certain secondary feasts do not enjoy, in some places, the privileges of the principal patron and titular saint of the church?

Doubt III. On the last Sunday of July, the Feast of the Patronage of Saint Amatus, the principal patron of the diocese, is assigned for this diocese. The question is: when it coincides with the feast of Saint Anne, the Mother of the Blessed Virgin Mary, of the same rite and of greater importance, must the Feast of Saint Amatus be transferred, or the feast of Saint Anne?

Doubt IV. In the calendar of a certain diocese, on the second day of November, it is written that in the principal churches, one Mass is to be said at the main altar on that day, as is only prescribed in the Cathedral and Collegiate churches. The question is: besides the Cathedral and Collegiate churches, can one Mass be said at the main altar on that day? Or must all Masses be said for the repose of the souls of the departed?

Doubt V. Since, by an Apostolic Brief of October 22, 1850, the Vigil of the Immaculate Conception was granted for the Kingdom of both Sicilies, both in the Office and in the Mass, is it to be considered that a special privilege is to be used when it always falls during the time of Advent?

Doubt VI. Since this year, in the City of Montismarani, the Feast of Saint John the Apostle, the principal patron, which is a feast of precept, falls on a Friday in Lent, the question is: Is the parish priest obliged to offer a Mass for the people on the day it is transferred, even though there is no obligation to attend Mass or to abstain from servile labor?

Doubt VII. By a general decree of May 27, 1826, it was forbidden under any pretext to carry the relics and images of the saints processionally under a baldachin or pall. And according to the opinion of Aloysius Gardellini,

Translated by churchlatin.ai, a product of Boyne Archives

in Decree 4570, it is entirely forbidden to carry them, since only the Holy Eucharist deserves such honor; The question is: is it permissible to carry a baldachin?

[*Latin ed. p. 229*]

Nusco 229: Is it permissible, at least in retrospect, to venerate relics and images of Saints in more places than are currently customary? And if not, is it permissible to carry them about, provided that a Bishop participates in a procession?

Question VIII: Concerning votive Masses: In order to satisfy the pious desires of the faithful, is it permissible in votive Masses to recite the Mass proper of Mount Carmel and of the Most Holy Rosary, as Aloysius of Carpi notes, as is indicated in the Missals, for the Masses of the Seven Sorrows of the Blessed Virgin Mary and of the Immaculate Conception? Or, rather, should one recite one of the five Masses proper to the Blessed Virgin Mary, according to the quality of the time? And since the rubrics forbid reciting Masses for the feasts of the Blessed Virgin Mary, namely, of the Purification, of the Annunciation, of the Visitation, of the Assumption, of the Nativity, and of the Presentation, is it at least permissible to recite Masses proper under the illustrious titles of Grace, of Mercy, of Good Counsel, of the Ark, of Succor, and of Purity, etc.?

Question IX: When, during Mass, a collection is added at the command of the Bishop for the Pope, for all the faithful, etc., is it to be omitted or changed to another prayer when the anniversary of the consecration of the diocesan Bishop occurs?

Furthermore, the Sacred Congregation, after hearing the opinion in writing of another of the Masters of the Sacred Liturgical Ceremonies, and after mature deliberation, has decided as follows:

Regarding Questions I and II: The Sacred Congregation for Rites considered the questions included under numbers I and II to be so serious that they could not be resolved simply and without careful study. Therefore, with regard to questions I and II, the response is: "Let them be noted on a separate sheet."

It should be known that the Sacred Congregation often refers questions to a separate sheet when it considers them to be of such gravity that they require further discussion before the Sacred Tribunal of the same Congregation. However, such a discussion usually does not take place unless the promoter of justice or someone else acting on his behalf insists on a resolution and incurs the necessary expenses.

[*Latin ed. p. 230*]

230 From the Sacred Congregation of Rites, Decree I, paragraph 11: The Feast of Saint Anne is to be preferred, both when it coincides with another feast day and when it occurs on the same day. Decree I, paragraph 5: The

Translated by churchlatin.ai, a product of Boyne Archives

rubrics of the Missal are to be observed on November 11th. Decree V: The rubrics are to be observed as on the vigil of Saint Thomas the Apostle, namely, nothing of the vigil is to be included in the Office. Decree VI: Reference is to be made to the Sacred Congregation of the Council. Decree VII: In all cases, the General Decree of May 27, 1826, is to be observed. Decree VIII: The decrees issued in Mexico on March 12, 1678, and those issued by the Order of the Friars Minor of Saint Francis of Assisi in San Francisco on September 30, 1679, are to be followed. Decree IX: In this case, the Collect for the Pope is omitted. And thus it was written, declared, and ordered to be observed. January 32, 1876. Cardinal PATRIZI, Bishop of Ostia and Velletri, Secretary of the Sacred Congregation. The decrees cited in the response to Question VIII, taken from the records of the Secretariat of the Sacred Congregation of Rites, dated January 22, 1876, are as follows: MEXICO — ... 8. In many churches, Masses are often celebrated on the feasts of the Blessed Virgin Mary with solemnity and the attendance of the people; the question is asked: If a Mass is celebrated on the Feast of the Annunciation in this manner, should it be done in honor of the Incarnation, which occurs on the very day of the Annunciation? And the same Sacred Congregation of Rites responded... <(That the proper Masses for the feasts of the Blessed Virgin Mary are not to be celebrated, except on the days on which those solemnities occur, and during their Octaves, and at other times, a Votive Mass of the Blessed Virgin Mary, found at the end of the Missal, should be celebrated in their place.

[*Latin ed. p. 231*]

Nuseana 231, arranged according to the distribution of time therein, with the intention of honoring the Annunciation, the Assumption, etc. On this day, March 12, 1678. OF THE MINOR CAPUCHIN ORDER. Since, after the last approval by the Holy Roman Church, certain Offices of the Saints have been added to the Calendar for the use of the Minor Brothers of the Capuchin Order, by order of the same Holy Church, to be included in the Roman Breviary; therefore, the Reverend Procurator and General Commissary of the Minor Brothers of the Capuchin Order (in order to maintain the uniform recitation of the Divine Office in their Religious Order) petitioned for the assignment of the following days to the following Saints, as the aforementioned Sacred Congregation has assigned for the declaration of the following doubts, namely: I. Whether the Mass assigned to the Feast of the Conception of the Virgin Mary for the Minor Brothers, can be celebrated on Saturdays, as a votive Mass?... Regarding the aforementioned doubt, the Sacred Congregation responded as follows: To I. Negatively, etc. On September 30, 1679. In witness whereof, etc. From the same Secretariat, on this day, February 8, 1876. Pia Ralli, Secretary of the Holy Roman Church. DECREE. Y1ND0B0NEN. Concerning the Beatification and Canonization of the Venerable Clement Maria Hofbauer, Priest, of the Con-

Translated by churchlatin.ai, a product of Boyne Archives

gregation of the Most Holy Redeemer, regarding the doubt: Whether it is established that he possessed the Theological virtues of Faith, Hope, and Charity in God and towards his neighbor, as well as the Cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and their associated qualities, in a heroic degree, in the case and to the effect of which we are speaking? The Heavenly Father, who desires that all men be saved, repeatedly raises up workers, and sends them into His Church's vineyard to gather in the falling.

[*Latin ed. p. 232*]

From the Sacred Congregation for the Propagation of the Faith, to remove the thorns of vices and eradicate the tares of errors, which the enemy, man, ceaselessly strives to sow. And even in this latest hour, the ineffable Providence of God called the Venerable Clement Mary Hofbauer to the laborious work of this ministry. Born in the town of Tasswitz in Moravia in the year 1712, from poor parents, he spent his childhood and youth soberly, justly, and piously. Seeking to discover the best way to conform himself to the example of Christ, he withdrew into solitude, where, after constant prayers and fasts, he understood that he was called to the priesthood. Therefore, he eagerly hastened to Rome to devote himself to sacred studies, and scarcely had he arrived when, in a most wondrous manner, he was received into the Liguorian Institute, where he demonstrated, through the strict observance of discipline and the study of all virtues, how fervent he would be as a minister of the New Testament. Having been ordained a priest, he was sent by the Holy See to evangelize the people of God in Poland. But as soon as he arrived in Warsaw, his body knew no rest, but he endured all tribulation, exhibiting himself as a minister of God in much patience, in distresses, in labors, in vigils, in fasts, in the Holy Spirit, in charity, so that those in those regions might be reformed by his apostolic zeal, and the Catholic religion confirmed and increased. Meanwhile, the Worker, truly an ambassador for Christ, as he had already foretold, spread the family of the Holy Founder through Switzerland, Dacia, and Germany. But, not discouraged by the wickedness of the times, having been expelled from Poland; clothed with the armor of justice and shod with the preparation of the Gospel, taking up the shield of faith, and the sword of the Spirit, which is the word of God, he arrived in Vienna in the eighth year of this century. In that illustrious city, he offered an example of good works in teaching, in integrity, in gravity, and daily proclaimed the testimony of Christ, not in the sublimity of speech, nor in the words of human wisdom, but in the demonstration of the Spirit and

[*Latin ed. p. 233*]

He was so devoted to virtue, and so transformed by the grace of God, that, nourishing the faithful with the food of heavenly doctrine, and

Translated by churchlatin.ai, a product of Boyne Archives

through diligent work in his ministry, he brought many souls to God, freed many from the snares of this world and the Devil, and strengthened the faith of that people, promoting the use of the sacraments and the practice of piety. Until, worn out by his labors, and having suffered much more for the glory of God and the salvation of souls, he was struck by a grievous illness, which he bore with the greatest patience, and on the twentieth day of March of this century, he attained a precious death in the sight of the Lord and his own. But the fame of his sanctity, which Venerable Clement had acquired throughout Germany, and especially in Vienna, through his virtues and his tireless ministry, grew so much after his death that, in the year 1868, the Most Holy Pope Pius IX, on the sixteenth day before the Kalends of March, signed with his own hand the decree for the introduction of the cause for the beatification and canonization of the Venerable Servant of God. After the necessary proceedings in this cause were completed, according to the Apostolic Constitutions, the heroic virtues of the Venerable Clement Maria were first discussed in the Preliminary Congregation on the fifth day before the Nones of March, in the year 1874, in the halls of the Most Reverend Aloysius Bilio, Bishop of Sabina, and Relator of the Cause. The following year, the same question was reviewed in the Vatican halls on the seventh day before the Kalends of March, by the Most Reverend Cardinals entrusted with the preservation of the Sacred Rites. Finally, in the general meetings of the preceding year, before the Most Holy Pope Pius IX, in the Vatican Palace, together with the Most Reverend Aloysius Bilio, the Relator of the Cause, the question was proposed: Whether it is established that the Venerable Servant of God possessed the theological and cardinal virtues, and those attached to them, in a heroic degree, in the case and to the effect that are being considered. Then the Most Reverend Cardinals, who presided over the Congregation of Sacred Rites, and each one individually...

[*Latin ed. p. 234*]

From page 234 of the Code of Canon Law, three Consultors, in order, pronounced their opinions. The Most Holy Lord, Our Pope, before issuing the decree on a matter of the gravest importance, urged all to implore the spirit of counsel through the prayers of the Fathers. Having carefully considered the matter with himself, and with the Lord favoring and inspiring him, he finally decided to pronounce the ultimate judgment on the fourth Sunday after the Paschal feasts. After offering the Holy Sacrifice of the Mass with the utmost piety in the private chapel of the Apostolic Palace in the Vatican, he went to a more noble hall, where he received the Most Reverend Cardinal Constantino Patrizi, Bishop of Ostia and Velletri, Dean of the Sacred College, and Prefect of the Congregation of Sacred Rites, and the Most Reverend Cardinal Aloysius Bili, Bishop of Sabina, and the Relator of the cause; together with Father Lawrence Salvati, Promoter of

Translated by churchlatin.ai, a product of Boyne Archives

the Sacred Faith, and myself, the Secretary of the Congregation of Sacred Rites, and solemnly decreed: That the theological virtues of Faith, Hope, and Charity in God and in neighbor, as well as the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and those virtues attached to them, are present in a heroic degree in the Venerable Servant of God, Clement Maria Hofbauer, a Priest of the Congregation of the Most Holy Redeemer, in the case and to the extent of what is being considered. He ordered that this decree be made public and recorded in the Acts of the Congregation of Sacred Rites on the eve of the Ides of May, in the year 1876.

Cardinal Patrizi, Bishop of Ostia and Velletri, Prefect of the Sacred Rites, L-SB.

Father P. Balli, Secretary of the Sacred Rites.

[*Latin ed. p. 235*]

Apostolic Brief 235. By this Brief, the Most Holy Pope Pius IX declares that the Church of St. Andrew in the city of Subiaco has been and is a Cathedral Church. PIUS PP. IX. FOR PERPETUAL REMEMBRANCE. It is fitting that the roots of ecclesiastical matters be pruned, especially those which threaten the detriment of divine worship, and which create discord among the clergy. Therefore, Our beloved son, Raphael, of the title of the Holy Cross, Cardinal Priest of the Holy Roman Church in Jerusalem, and the clergy and people of the Abbey of Subiaco, which We have taken under Our governance and reserved by Letters dated the thirteenth day before the Kalends of April in the year of Our Lord 1872, and whose administration We have entrusted to the aforementioned Raphael, having requested that it be defined, or rather declared, whether the illustrious Church of St. Andrew, situated in the principal part of the city, and its chapter, ought to be considered and treated as the Cathedral Church of the Diocese of Subiaco, for all legal purposes; We, having considered these requests with due deliberation, have observed that, although the Church of St. Scholastica, located about two miles from the city, enjoys a certain pre-eminent honor as the former seat of the regular Abbot, and although commendatory Abbots are accustomed to hold a certain private possession therein, and whether in public acts, or even in Apostolic Letters, the Abbots are called the Saints of Benedict and Scholastica to preserve the memory of the ancient foundation of the Abbey, nevertheless, the prerogatives, qualities, and requirements which more closely pertain to a Cathedral Church or a place constituted as such, fully concur with and are demonstrated in the aforementioned Church of St. Andrew, and its chapter. For—

[*Latin ed. p. 236*]

236 From the Sacred Congregation of Rites, it is known that, indeed, our predecessor, Pope Urban VIII, had declared that the collegiate church of St

Translated by churchlatin.ai, a product of Boyne Archives

Andrews, which had previously been separated and distinct from the regular canons by our predecessor, Pope Leo X, was truly under no diocesan jurisdiction, but rather was attributed to Episcopal Abbots as commendatory abbots; and that from that time onward, these same commendatory abbots had established and maintained, and continue to maintain, their own quasi-episcopal seat within that very church of St Andrews, and that they, along with their vicars general, likewise began to have their own seat in the choir, and a stall there. It is also known that newly appointed commendatory abbots have always been formally inducted into possession of the entire collegiate church, with the due observance of obedience by the chapter and clergy, and that they have consistently and without interruption fulfilled all the functions of a bishop, with the assistance of the entire chapter and clergy; among which are especially the sacred ordinations, and the administration of the Sacrament of Confirmation, the blessing of the Holy Oils, which are preserved in that church, and from which all, both secular and regular clergy, receive; and finally, the solemn opening of the pastoral visitation. Furthermore, it is known that all public supplications and general processions, in which the secular and regular clergy participate, are ordered by the chapter of that church, beginning * at that church and ending at that church; that the ringing of the bells begins, and should begin, on Holy Saturday, as decreed by the sacred visitation of the year of Our Lord 1744; and that a seminary for clergy is attached to it, who are constantly engaged in performing divine services there; and that in the sacristy of that temple, the insignia and images of the commendatory abbots are preserved in an unbroken series, which are never transmitted to other churches, but are always displayed there by each newly elected commendatory abbot. Finally, it is also known that the chapter and canons...

[*Latin ed. p. 237*]

The Apostolic Brief 237 of the aforementioned Church, as the Senate of the Abbot Commendatory, has perpetually fulfilled all that a Cathedral Church ought to perform, namely, not only the aforementioned duties, but also all other pontifical functions, exclusively and formally assisting through the Abbot Commendatory, whether in fulfilling the office of Examiners for the Synodal and Seminarian Delegates, or in offering counsel and assistance in more serious matters, or in formally and capitularly giving consent, whenever the consent of the Chapter has been required by the Holy See in the election of Examiners for the Synodal, or in the alienation of the Church's goods, or in other similar matters. Therefore, having considered and examined these and other matters that were to be considered, we define and declare that the Church of Saint Andrew in the City of Subiaco has been and is a Cathedral Church, or a *loco* Cathedralis, of the Nullius Diocese of Subiaco, and to the extent that it is necessary, we establish and constitute it as such, and we command that it be regarded as

Translated by churchlatin.ai, a product of Boyne Archives

such by all. Consequently, the Chapter of the same Church has been and is likewise the Chapter of the Cathedral Church, or *loco* Cathedralis, to which, therefore, all rights belong that are known by law or custom to be due to Chapters of Cathedral Churches, or *loco* Cathedralis. However, with this Our Constitution, we do not intend to change anything regarding the title of the Abbot Commendatory of the Nullius Diocese of Subiaco, who, in the future, will be called the Abbot Commendatory of the Saints Benedict and Scholastica of the Nullius Diocese of Subiaco, in order to perpetuate the memory of the original foundation of the Abbey; nor do we intend to imply any prejudice to the honorary rights, or other similar rights, of the aforementioned monasteries, which, as before, we wish to remain untouched. Finally, to Ourselves and Our Successors, when the abbatial seat is vacant, we reserve the right of election or nomination of the Capitular Vicar.

[*Latin ed. p. 238*]

238 From the Sacred Congregation of the Holy Office, as has been observed from times past according to a special disposition. We decree that these Our Letters shall always exist and be valid and efficacious, and shall produce and obtain their full and complete effects, and shall fully support those to whom they pertain, and at any time shall pertain, in all things and through all things; and thus, in the aforementioned matters, by any judges, ordinaries, or delegates, even Auditors of the Apostolic See, and Cardinals of the Holy Roman Church, even as Legates, vice-delegates, and Nuncios of the Holy See, they ought to be judged and defined, having been deprived of any other power of judging or interpreting, and of any authority; and they shall be declared void and null, if, by anyone, with any authority, knowingly or unknowingly, anything should happen to be attempted contrary to this. Notwithstanding, insofar as it is necessary, Our rule and that of the Apostolic Chancery regarding matters of law shall not be set aside, nor the happy memory of Pope Benedict XIV, Our Predecessor, concerning the division of matters and other Apostolic matters, and in the general and provincial and synodal councils, by general or special constitutions and ordinances, and other things, even if they are worthy of special and individual mention and derogation, to the contrary. Given at Rome, at Saint Peter's, under the Fisherman's Ring, on the 28th of January, 1876, in the thirtieth year of Our Pontificate. F. Card. ASQUINITJS.

[*Latin ed. p. 239*]

Apostolic Brief 239. A Brief from the Most Holy Pope Pius IX, by which the equity of Peter Balam in composing history is commended.

PIUS PP. IX. TO OUR DEAR SON, GREETINGS AND APOSTOLIC BENEDICTION.

Translated by churchlatin.ai, a product of Boyne Archives

Recently, We received from you, with filial affection, the two first volumes of the history of Italian affairs which you have published, a testament to your obedience to Us. We rejoice that you have undertaken this noble and useful work, with the intention of defending history from errors, calumnies, and falsehoods, with which certain writers have not hesitated to defile it, and so that young people, in particular, may draw from pure sources a true and accurate account of events.

Commending from the heart your excellent and praiseworthy intention, We have no doubt that you have successfully achieved the goal you set for yourself, as the best arguments We have regarding your devotion to the Church and to this Holy See, and your expertise in this field, acquired through much labor, fully assure us. Therefore, We earnestly desire that those who consider history as a witness of time and a light of truth may make use of the fruits of your labors, and that even more may join you in this excellent endeavor, contributing their strength and talents for the common good of the Church and the nation.

Meanwhile, praying to God that He may assist you with His grace, so that you may bring to fruition what you have begun so usefully, We gladly offer you a testimony of Our gratitude through these letters, and We impart the apostolic blessing as a pledge of paternal love.

Given at Rome, near St. Peter, on the 1st day of April, in the thirty-third year of Our Pontificate.

PIUS PP. IX.

[*Latin ed. p. 240*]

FROM THE HOLY CONGREGATION OF THE COUNCIL, CONCERNING THE FACULTY OF OFFERING TWO MASSES. December 11, 1875. Summary of the matter. The faculty of offering two Masses, which in past times was used by Church priests, even to the farthest reaches of the land; now is urgently requested by the Bishops of Italy from the Holy See. Such is the sorrowful state of times, that the Ordinary pastors of the unhappy peninsula, afflicted by a lack of priests, do not know how to provide for the faithful people. And unless it were granted by the Roman Pontiff, that at least on feast days, some priests might offer two Masses, the people entrusted to them would be deprived of the spiritual good that flows from the Sacrifice of the Mass. Three Bishops together from the Italian region came to the Pope these days, requesting such a faculty. The first of these said that four parishes were vacant in his diocese, and that, due to the ever-increasing lack of priests, he had entrusted two of them to a canon from the cathedral, and two others to two neighboring parish priests. These, however, on the feast day in question, are not able to offer the Sacrifice of the Mass, nor to explain the Holy Gospel of God, unless they are granted

Translated by churchlatin.ai, a product of Boyne Archives

the faculty of offering two Masses. The Most Holy Prince was then approached by a second, who reported that there were several parishes in his diocese that were located in mountainous areas and remote places; whose inhabitants are numerous.

[*Latin ed. p. 241*]

Concerning the possibility of saying two Masses: 241 With difficulty, the entire parish petitioned the Church. For they were compelled to abandon their goods and dwellings without protection, incurring grave danger. A third then presented his case to the Roman Pontiff; he explained that in his Diocese, there existed a parish with a large number of inhabitants, and that these inhabitants were widely dispersed; the parish priest, to whom the care of souls had been entrusted, was accustomed to celebrating the Holy Sacrifice of the Mass in a small church, located in one of the villages, which served the people of that area. Therefore, he requested that the chaplain of that village be permitted to say two Masses, for the benefit of the inhabitants. "It must be known," he said, "that not all can attend the Holy Sacrifice of the Mass at the same time, since some are compelled to lead their flocks to pasture, and to care for them, while others go to the church." Having considered these matters, the Sacred Congregation issued a decree concerning all, "through summary proceedings." A synoptic discussion. THOSE ARGUMENTS WHICH ARE RAISED AGAINST THE GRANTING OF SUCH INDULGENCES. In the early times of the Church, the small number of priests required that the same priest celebrate multiple Masses on the same day, as testified by Cardinal Bona in his *Rerum liturgicarum libri*, book 1, chapter 18, sections 5 and following, and by Benedict XIV in *De Synodo Diocesana*, book 5, chapter 8, section 8. This custom remained intact in the following centuries, the Church permitting it, although the number of priests was not as scarce as it had been previously. However, over time, since the repetition of Masses on the same day was not yet strictly prohibited by law, some, solely for the purpose of collecting alms, celebrated the Holy Sacrifice of the Mass more frequently during the day. As a result, the Council of Salzburg, above all others, decreed in the eleventh century that each priest should presume to celebrate no more than three Masses in a day. See Thomas, *De veteri et nova Ecclesiae disciplina*, part 3, I. 1, chapter 72, section 3. See also the *Acta*, volume IX, page 16.

[*Latin ed. p. 242*]

242 From the Sacred Congregation, it is established that Leo IV decreed that no priest should celebrate more than one Mass in a day, except on the feast of the Nativity of the Lord, and on Sundays when a funeral is being held, as is read in the ancient, anonymous historical collection. Several Popes have issued similar decrees; however, Innocent III in chapter *Consuluisti*, and Honorius III in chapter *Te referente*, more strictly for-

Translated by churchlatin.ai, a product of Boyne Archives

bade the repetition of Mass, except for the feast of the Nativity of the Lord and in cases of necessity. Regarding the cause, it was established that not any necessity whatsoever suffices, but only that necessity which cannot be remedied in any other way. In the cases presented, it is not easily understood whether such a necessity existed. For in the first of these cases, it seems that a suitable stipend could have been assigned to a priest from the revenues of both parish churches. Therefore, the indulgence should not have been granted, as the Sacred Congregation defined in *Aurien*. Regarding the question: "Whether the Bishop of Aurien is obliged to grant the aforementioned curate permission to celebrate two Masses on any feast day, one in the parish church of Qualedro, and the other in the parish church of Vitela," the response on May 4, 1715 was: "No." However, at the same time, the Sacred Congregation ordered that two priests be appointed, and that a suitable stipend be assigned to them from the revenues of both parish churches, as is found in Lib. 65, Decret, pages 194 and 214. What has been said regarding the first case, it seems can also be said regarding the other two cases; for in these cases, it is not a matter of one parish priest who administers two parishes that are distant from each other, but of a parish priest who is only assigned to one parish, and who cannot assist the other in any way, either due to the distance of the parish church, or due to the lack of another priest, and the poverty of the church and its inhabitants; indeed, considering these circumstances, the Sacred Congregation denied the indulgence in Apten, on May 8, 1734. Regarding the question: "Whether it is advisable to consult with the Most Holy..."

[*Latin ed. p. 243*]

Regarding the possibility of dispensing with the obligation of attending Mass on Sundays, it was stated: 1.° It would be extremely difficult to find another priest who could celebrate Mass on feast days in the aforementioned oratory, since there is no other priest either in the said town or in the surrounding areas. 2.° The parish church of Sioux is located approximately two thousand paces from some of the houses in the aforementioned locality, and the road is difficult, especially during the winter months, due to the numerous streams. 3.° There are approximately one hundred inhabitants who are unable to conveniently access the parish church to attend Mass. 4.° Finally, the local landowner is unable to provide any significant alms, nor are the inhabitants able to contribute anything; therefore, the response was: Negative. Consequently, the proposed requests are opposed, not only by the Constitutions of the Roman Pontiffs, but also by the long-standing and universal practice of the Church, which has denied priests the ability to celebrate Mass more than once in a day, and has only permitted the offering of the sacrifice of the Mass once in a day.

However, contrary to what has been stated, it has been noted that, if a true and serious necessity demands it, the same priest can celebrate Mass

Translated by churchlatin.ai, a product of Boyne Archives

twice on the same day, as is stated in the Canon, sufficient in consecrat, distinct. i, and in the chapter "Consulesti de celebrat. Missae." Therefore, if, due to a shortage of priests, one parish priest is assigned to two parishes, which are so far apart that the flock of one parish cannot conveniently attend Mass in the other parish, the same priest may, with the permission and approval of the Bishop, celebrate Mass in both churches on the same day: this is stated by Gonzalez in chapter "Consulesti" number 2; by Pirhing in book 3 of decrees, title 41, § 1, number 2; by Barbos, in "Ad Concil. Sess. 22, De Sacrif. Miss." book 3, chapter 5, number 1, and by the Sacred Congregation in its vote regarding the case of Derthusen, August 20, 1768. The same can be said of a parish priest who, although he does not administer two parishes, nevertheless has two populations that are far apart.

[*Latin ed. p. 244*]

244 From the Sacred Congregation, [it is decreed] that parishes be separated; so that, due to the distance between the places, one parish priest could not possibly attend the celebration of Mass in the other parish on feast days; unless there is another canonical remedy to address such a necessity, namely, either through the delegation of another priest, or through the division of the parish. And this is indeed fitting; for the Pontiffs of the Church have decreed, and the interpreters of sacred canons and doctors have advised, that the pastors of two parishes can be granted permission to celebrate the Mass in turn, because the faithful, separated by the distance of the journey, would not enjoy the benefits that flow from the offering of the Sacrifice of the Mass. However, from the observance of both forums, a well-worn and universally accepted principle has arisen: that the same holds true in law where the same reason exists. Furthermore, the same considerations that favor the arrangement for two parishes also apply to those cases where the burden of two churches rests upon one, and where the flock is scattered far and wide, and cannot be gathered together in one place and at one time. Especially when monuments of a similar nature have been granted privileges in such cases. Thus, the Sacred Congregation decreed in one Rescript, January 25, 1569, in Aleñen, September 20, 1622, moved by this very reason, that it is better to err on the side of abundance, when speaking of favorable things, than to leave the Christian flock lacking in spiritual benefits. Regarding this matter, Benedict XIV, in the Constitution *Declarasti nobis*. Therefore, since it has already been defined that a parish priest who administers two parishes can also celebrate two Masses on the same day, if the people of one parish cannot gather, nor can another priest, other than the parish priest himself, who is able to celebrate Mass; and since it has also been defined that a parish priest who has a flock scattered far and wide, so that the entire flock cannot be present to the celebrating parish priest on a feast day, can also celebrate two Masses, it seems that no weighty reason can be offered to reject the proposed petitions. In the first

Translated by churchlatin.ai, a product of Boyne Archives

case, it is a matter of...

[*Latin ed. p. 245*]

Concerning the faculty of saying two Masses: To 245 parish priests, who administer two parishes, and in the case of others, it concerns parish priests who do not administer two parishes, but rather two places, so separated from each other that one parish priest celebrating on feast days could in no way be present at the other. Therefore, the requested dispensation seems to be able to be granted. After considering the arguments both for and against these petitions, the matter was referred to the judgment of the Most Reverend Fathers.

RESOLUTION. The Sacred Congregation of the Council, on December 11, 1875, after discussion, deigned to give the following response: A five-year term at the discretion and conscience of the Ordinaries; if the circumstances persist for so long, but in such a way that alms are not received for the second Mass; let this be done with the Most Reverend Fathers.

THEREFORE, IT IS UNDERSTOOD:

I. It is not permissible for any priest to say two Masses on the same day, if another priest can be found who can satisfy the needs of the people.

II. Therefore, in order that it may be permissible for a priest to say two Masses on the same day, there must be canonical reasons that induce a certain necessity.

III. Such a necessity must be of such a nature that, unless a certain priest is granted the faculty of saying two Masses on the same day, the mandates of the Church would not be fulfilled for a greater number of people.

IV. Such a necessity must indeed be true, but moral, and not absolute; so that it must be judged with prudent judgment, after considering the circumstances surrounding the case.

V. Ordinaries, to whom the burden is entrusted of judging the gravity of cases, should not, in this matter, be overly hasty; so that the faculty of saying two Masses, once granted, does not seem to be rendered practically ineffectual in almost any case.

[*Latin ed. p. 246*]

246 From Sacred Congregation for the Council, Formulas and conditions by which such a faculty is protected by the Holy See, so that it is not abused by anyone, but that it may be used prudently in every circumstance. VII. Therefore, with all abuse removed, Local Ordinaries may use the same faculty granted to them, whenever in their conscience and charity they deem it necessary or greatly useful to the faithful.

CONCURS (Competition). On December 12, 1874, June 19, 1875, and April 1, 1876. Summary of the facts. In the year 1872, on July 27, the parish

Translated by churchlatin.ai, a product of Boyne Archives

church of Saint Mary in the diocese of A. became vacant due to the death of its pastor. The Episcopal Curia, through public edicts, announced a competition for the position on the 29th of the same month. The following priests presented themselves, registering their names in the register of candidates: Aloysius C., Andrew M., Francis A., Salvator F., and Joachim G., who, however, declared that he was attending the competition solely for the sake of practice. On August 9th, after deliberation, the Examiners, in the first place, approved Aloysius C.; in the second place, Andrew M.; in the third place, Francis A.; in the fourth place, Salvator F.; and finally, they judged Joachim G. to be sufficiently qualified in terms of knowledge. With this report received by the Ordinary, he elected Aloysius C. on that very day. The priest Francis A., through his procurator, appealed to the Curia of A. against the unfavorable report of the Examiners and the unreasonable judgment of the Bishop.

1. Let the reader consult the question regarding the Concurs in Volume VII, pages 366 and following. Let him also see Appendix X which follows, on pages 379 and following. There he will find a detailed account of what may be useful for the more effective implementation of the disposition of the Council of Trent, regarding the Concurs in the collation of parishes.

[*Latin ed. p. 247*]

At Le Conquet, the Ordinary considered that such oppositions should be rendered null and void, and therefore, rejecting them, Francis A. presented a petition to the Sacred Congregation of the Council. The matter concerned the bad report of the Examiners and the unreasonable judgment of the Bishop; especially because of the unworthiness of the candidate for the parish church, since he had published works condemned by the Sacred Congregation of the Index. When questioned about the information and the vote, the Bishop stated that he had rejected the petitioner's appeal because the fatal days had already passed. Furthermore, he observed certain qualities of the aforementioned priest, and pointed out that he had given his own name to a subscription at Passaglia. The Bishop declared that the priest was the author of several works that had been condemned by the Sacred Congregation of the Index, but that he had nevertheless obeyed their judgment and humbly submitted himself. The priest, Francis A., presented various documents demonstrating that he had truly made a full retraction and that he had submitted himself to the prescriptions contained in the circular letter of the Penitentiary to all Ordinaries, dated May 28, 1865. Therefore, having considered all the facts, the case was brought before the Most Holy [Pope], who, after mature deliberation on February 17, 1873, ordered a new competition to be held, and instructed that this be notified to Bishop A. On February 27 of the year 1873, the Ordinary ordered a new competition for the vacant parish, in order to comply with the mandate of the Most Holy. In addition to the others mentioned, the priest Angelus

Translated by churchlatin.ai, a product of Boyne Archives

N. was also present, to undergo a second examination, which took place on July 3 of the aforementioned year. Only three of the five Synodal Examiners who had judged the previous competition were present.

Appellationis fatalia sunt illa tempora, intra quae debet inchoari et terminari causa appellationis ; aliter facultas appellandi fit deserta et extinguitur. Et ista tempora dicuntur fatalia a fato sive a morte. Nam sicuti mors extinguit totaliter hominem, ita lapsus temporis pro appellatione concessi, extinguit appellationem. Appellatio ceu in themate non conceditur: nisi intra decem dies a die collationis interponatur.

The "fatal days" are those times, within which a cause of appeal must be initiated and concluded; otherwise, the right to appeal is forfeited and extinguished. These times are called "fatal" from fate or death. For just as death completely extinguishes a man, so too the lapse of the time granted for an appeal extinguishes the appeal. An appeal, as if on probation, is not granted unless it is presented within ten days from the day of the decision.

[*Latin ed. p. 248*]

248 From the Sacred Congregations, another document was added. After the examination, the Examiners presented the following report, to be read aloud: "Having carefully considered all the qualities necessary for the administration of souls, namely age, moral character, seriousness, prudence, and other requirements established by law, we approve and declare suitable and capable for the vacant position: Aloysius Arechidiaconus C., who obtained twelve points in all categories; Very Reverend Andrew Canonicus M., who obtained nine and a half points; and Reverend Salvator F., who obtained six and a half points. We disapprove of Reverend Franciscus Canonicus A., who obtained four points, and of Reverend Ioachim G., who obtained three points. Regarding moral character, Aloysius C. obtained twelve points in the most recent examination, which is now repeated according to the decree of the Holy Apostolic See dated February 18, 1878. This judgment is confirmed by us, as he has presented valid documents that demonstrate that all accusations against him are false, and which are included herein. Very Reverend Andrew M. was approved, but obtained only six points. Regarding Reverend Salvator F., since he has not presented any further evidence of merit, we believe that he remains in the same position that he obtained in the aforementioned examination, namely, not expressly disapproved. Regarding Very Reverend Franciscus Canonicus A., although he has retracted his subscription in the *Passagliano* book through public periodicals, since he has not presented the document of absolution that he should have obtained from the Apostolic See, as was the case for Aloysius C., we withhold any judgment for the present time. Finally, Reverend Ioachim G. obtained a simple approval, obtaining six

Translated by churchlatin.ai, a product of Boyne Archives

points." After this report was presented.

[*Latin ed. p. 249*]

On the 249th day, the Illustrious and Reverend Bishop declared on the fifth day of the aforementioned month: "And we, in no way deviating from the judgment of the Synodal Examiners, and with unwavering resolve, consider the aforementioned Reverend Aloisius Archdeacon C. to be, as far as in us lies, the one whom We deem most suitable, since We believe him to occupy the first place." Scarcely had such news reached the ears of the Priest Francis A., when he appeared before the Episcopal Curia at the appointed time, declaring that he would formally appeal to the Sacred Congregation C. against the unfavorable report of the Examiners, and against the unreasonable judgment of the Bishop; which he actually did on July 19th, in order to safeguard his rights, which were being violated and obscured. Furthermore, Salvator F. wrote to the Sacred Congregation C., protesting against the formula issued by the Examiners, stating that "we neither approve nor disapprove" of it.

A concise summary.

THE POINTS INDICATING THE CORRECT AND JUST REPORT OF THE EXAMINERS: The Holy Tridentine Council, indicating the norm to be followed by the Examiners in the report of the examination to be carried out (Session 24, chapter 18 concerning reforms), states as follows: "After the examination has been completed, those who have been judged by them (the Examiners) to be suitable in age, morals, doctrine, prudence, and other matters appropriate for governing the vacant Church shall be announced." Having considered this norm, it is clear to everyone that the report of the Examiners was correct and just; and that they fulfilled all the prescribed requirements. Indeed, they reported to the Bishop not only about the knowledge and doctrine of the candidates, but also about their morals, prudence, and other qualities. It is easily understood that not only was the report of the Examiners just and correct, but also that the Bishop's judgment was reasonable. It is certain that the Bishop could choose EITHER THE REPORT, OR A REASONABLE JUDGMENT OF THE BISHOP.

[*Latin ed. p. 250*]

250 From the Decree of the Council of Trent, approved by the Sacred Congregation, Session 24, chapter 18: "After the examination has been completed, those who have been judged suitable shall be announced, from among whom the Bishop shall choose the one whom he judges to be more worthy than the others." And Benedict XIV, in *De Synodo Dioecesana*, book 4, chapter 8, § 6, teaches that "It is the sole judgment of the Bishop that the most worthy among those approved should be chosen." The same has been defined many times by the Sacred Congregation, as can be seen in a certain pastoral decree of Monte Italo, dated July 17, 1862. Therefore,

Translated by churchlatin.ai, a product of Boyne Archives

since the Bishop has made use of such a legitimate judgment, it should also be considered that the law has been observed. Indeed, it cannot be considered an unreasonable judgment unless it is clearly demonstrated that the Bishop, through negligence, has chosen an unworthy candidate. And this is all the more true, because no one knows the character, probity, and greater suitability of the clergy for governing a parish better than the proper Superior, as noted by Benedict XIV in *Cum Illud*, §. Therefore, it strongly suggests that all those qualities of knowledge, probity, and prudence necessary for tending to the flock entrusted to him in the vineyard of Christ are present in the chosen candidate. This presumption, which aids the Bishop, is so weighty that the most certain and invincible proofs are required to demonstrate the unreasonableness of his judgment (Gonzalez *ad reg.* 8, Cancellariae gloss. 4, n. 117 and 132; Cardinal De Luca, *de parochis*, discourse 6, n. 3). Indeed, the Sacred Congregation has followed the jurisprudence of the Holy Roman Rota in the case of *Savonen. Archipresbyteratus*, June 15, 1816, §, and has proceeded to the point of declaring that the Bishop's appointment can only be revoked if it is shown that he acted with deceit or with excessive and intolerable partiality towards the pre-selected candidate. It was so evident in this matter that such proofs, demonstrating the unworthiness of the chosen candidate and the worthiness of the one set aside, were presented, that the appointment of Father Aloysius C. appeared to be exceedingly just and reasonable.

[*Latin ed. p. 251*]

The competition resulted in a judgment. Indeed, he excels so much in doctrine and prudence that the Procurators have served the office with notable merit for a considerable time; which makes him surpass all the requirements of a priest. Similarly, it must be noted that the priest Aloysius C. had written some works; while he, before the competition for the vacant church took place, had already retracted two errors in public periodicals, and had obtained absolution from the censures and irregularities. Therefore, it seemed just and correct to conclude that the report of the Examiners was not correct, and that the Bishop's judgment was reasonable.

THOSE THINGS WHICH SUGGEST THAT NEITHER THE REPORT OF THE EXAMINERS WAS CORRECT, NOR THE BISHOP'S JUDGMENT REASONABLE. The patron of the priest Francis A. endeavored with all his might to prove that the report of the Examiners was entirely bad, and that the Bishop's judgment was unreasonable. He therefore warned that there was no lack of suspicion regarding the bad report of the Examiners; since this suspicion arose from the very fact that someone who had once been approved was later rejected, even though the Examiners were not the same who had previously approved him, as the Holy Rota stated in the decision *Calaguritana Beneficii*, no. 529, page 14, no. 11, and elsewhere. This must be considered even more in this case, since it is known that three out of the

Translated by churchlatin.ai, a product of Boyne Archives

four Examiners chosen were the same who, in the previous competition, had judged the priest Francis A. to be suitable; and now they rejected him as unsuitable, while those who had then considered the priest Aloysius C. to be more worthy, even though he had not yet retracted his errors, were now present. This presumption gains greater strength if one considers that the Examiners, in the previous competition, had given a judgment regarding his suitability, even though there was not sufficient evidence of the revocation of the Passagliana subscription; while, on the contrary, in the subsequent competition, they suspended judgment regarding his qualities, although...

[*Latin ed. p. 252*]

They acknowledged the most ample revocation by the Sacred Congregation of the aforementioned subscription. And let it not be said that the matter concerns not presumption of law and of right, which does not admit of proof to the contrary. If the guarantor, *i.e.*, according to the Code concerning malice, but of a simple presumption, which must yield to truth. The marriage of Francis, *i.e.*, from the law concerning dowries, from which it is clear that the priest Francis A. had not, with his knowledge, included [himself]. Indeed, after a brief consideration of the intrinsic essence of the proposed questions, it is judged that this single note does not prove the reprobation of the priest A., but rather that he should be considered among the approved. Truly, the aforementioned Bull of Benedict XIV, under § 16, states: "(they) inquire into the honesty of morals, gravity, prudence, the services rendered thus far to the Church, the praise acquired in other offices, and other qualities worthy of mention, which must be joined together; and with all these things considered together, they reject those who are unworthy by their votes, and those who are suitable remain for the purpose." But if the requirements of the priest A., concerning which the judgment of the Examiners was associated with his knowledge, and considered together with the merits of his doctrine, had not only met the requirements but had far surpassed them. Furthermore, the Examiners could not have ignored the complete and formal retraction of the priest A., published in the ephemerides, and obtained from the Holy See with absolution. Even if they had ignored it, it would have been easy for them to suppose that he had been requested by the Episcopal Curia to perform the office of Synodal Examiner, and that they could see the same priest peacefully fulfilling his parochial duties. Therefore, the report of the Examiners was erroneous from the aforementioned.

[*Latin ed. p. 253*]

It is clear that the Bishop's judgment will appear unreasonable when considering the matter. Although Bishops can undoubtedly choose any of the approved candidates, it is the intention of the Holy Council of Trent that

Translated by churchlatin.ai, a product of Boyne Archives

this choice be made based on the most suitable candidate, or the one whom the Bishop deems more worthy. Therefore, since the duty of the judge is to assign what is due to each, it follows that the party whose merits are greater should be preferred; otherwise, the benefit of the appointment would be rendered futile. As Saint Pius V granted the privilege to the most suitable candidate in his Constitution regarding the collation of the parish, even if that candidate was considered inferior by the Bishop. Therefore, to avoid absurdity, it must be absolutely maintained that if it is established that the appointed candidate was not the more worthy one, the parochial collation cannot stand, because it must be considered entirely invalid, as clearly stated by Gonzalez in *ad reg. 8, Cancel, glos. 4, 156*. Furthermore, the objection that presumption always stands as a reasonable judgment of the Bishop must be dismissed; for, the more clearly the qualities preponderate in one candidate over another, the more irrational the Bishop's judgment becomes, as stated by Pignatelli in *consult. 173, num. 3, tom. i*. The patron of the priest Francis A. maintained that the priest A. was more worthy and suitable than the priest C. For in the former, all the qualities are present that should be prominent in a parish priest according to the form of the Council of Trent; in the latter, no quality is present, neither knowledge in moral or dogmatic theology. Moreover, the priest C. continues to hold doctrines condemned by the Holy See, and he does not hesitate to be insubordinate in censures for many years. It was not difficult to discern in the acts of the Ordinary a particular preference for the priest C; for, in the first instance, he chose him for the parochial church, although he was unworthy due to the dissemination of erroneous doctrines through printed material, which had been condemned by the Holy See; and he has not yet fully...

[*Latin ed. p. 254*]

254. From the Sacred Congregation, it had been retracted. Furthermore, such suspicion seems to grow the more, because the priest C. was serving as General Procurator. If it was suspected that the Bishop's judgment favored the one who was actually serving in his Seminary in Ripatransone on January 19, § 3, then it is all the more reasonable to say this concerning the priest C., who had served the Bishop in the office of Procurator for many years, and to whom he had sent a message a few days before the meeting. The Bishop, however, wrote to the same priest that he had received such a message with great sorrow, because of his valuable assistance in the governance of the Diocese. Therefore, it seems not to be doubtful either about the bad report of the Examiners, nor about the unreasonable judgment of the Bishop. Regarding the appeal presented by the priest Salvatore F., it was noted that, as prescribed by Benedict XIV in the aforementioned place, § 7: "No appeal shall be admitted either on account of a bad report from the Examiners, or from an unreasonable judgment of the Bishop; unless it is presented within ten days from the day of the imposition [of the office]."

Translated by churchlatin.ai, a product of Boyne Archives

And the Sacred Congregation, in the case of doubts concerning meetings on November 16, 1720, in response to the question: "Whether and for how long a time should be granted to those who intend to present an appeal either on account of a bad report from the Examiners, or from an unreasonable judgment of the Bishop," gave the following answer: "A time of ten days should be prescribed for the appeal." Hence, his requests would seem to be entirely to be rejected, since he appealed after a year had elapsed. However, since from the Bull of Benedict XIV it appears that the fatal days run from the day of the imposition, and the parish in this case was not imposed, since the Bishop only recommended Aloysius C. to the Holy See, the matter still seems to remain whole, especially because of the appeal presented by the priest Francis A. in due time; therefore, his requests would seem to be to be received. Having considered these and other things, the following two points were to be resolved.

[*Latin ed. p. 255*]

255. Questions Submitted for Consideration. I. Whether it is established by the judgment of the Bishop that a bad relationship exists between the Examiners in the case, and whether this is to be affirmed. II. Whether, in the case, and how, provision should be made for the vacant Parish.

RESOLUTION. The Holy Council, after due consideration on December 12, 1874, deigned to respond in the following manner: To I, Affirmative. To II, Ad Datam Apostolicam. The requested new hearing was granted; therefore, on June 19, 1875, the same question was proposed again under two formulas of doubt: I. Whether one should adhere to or depart from the decisions in the first doubt in the case. II. Whether one should adhere to or depart from the decisions in the second doubt in the case. The aforementioned response was issued: Deferred.

PROCEEDINGS OF THE CAUSE. Finally, on April 1, 1876, the same two Doubts were proposed again: I. Whether one should adhere to or depart from the decisions in the first doubt in the case. II. Whether one should adhere to or depart from the decisions in the second doubt in the case. The Congregation of the Holy Council, after a third deliberation on this matter, on April 1, 1876, gave the following responses: To I, In decisis et amplius. To II, Indicendum novum concursum iuxta ctionem dandam Episcopo Administrato- [The sentence is incomplete in the original text].

[*Latin ed. p. 256*]

From the Sacred Congregation, Decree 256, concerning those from whom it seems permissible to draw conclusions:

I. Examiners, in order to carry out a just and proper examination, ought not merely to be judges of doctrine, but it is necessary that they inquire as to who is most suitable among the candidates, considering his probity of morals, his labors, his prior service to the Church, and other qualities

Translated by churchlatin.ai, a product of Boyne Archives

necessary for the proper fulfillment of the office of Parish Priest.

II. It has appeared that in some of the candidates, labors completed in favor of the Church, and obedience previously rendered to the same Church, are lacking; and that some have written books containing doctrines that are reprobated; from which, rather than obedience, hatred of the Mother Church and indignity to the authors themselves for ecclesiastical duties are evident.

III. For, considering only doctrine, it is possible, with great detriment to souls, that someone who excels in letters may be appointed to the leadership of a Church, although otherwise less suitable or even unworthy; and that someone who, although less worthy in doctrine, is superior in other qualities, may be excluded.

IV. Therefore, examiners ought, after having considered doctrine, to consider other qualities, and the ornaments of virtues, which are conducive to the governance of souls; which must be closely associated with doctrine; and by their votes, they ought to reject the unsuitable and to present the suitable to the Bishop.

V. Bishops, among those who have been presented by the examiners as suitable, ought to choose the one whom they judge to be most suitable among the others.

VI. After such a judgment has been made, a presumption of the reasonableness of the judgment should exist in the Bishops, so that it should be evident that those who have been presented for consideration have not proceeded with deceit, or fraud, or excessive affection; so that the Tridentine form [of election] has been disregarded.

1. As Lambertinus demonstrated, in his *Discursus Secretarii circa appellationes*, § 11, it is said that it is very difficult to prove that the judgment of a Bishop was unreasonable...

[*Latin ed. p. 257*]

Decimarum 257, VII. Therefore, if the hypothesis is made that the Examiners alone have considered the knowledge [of the candidates], omitting all other investigations, the resulting report can be called such that it can be declared to be without merit. VIII. In the case of a competition for a Benefice, after it has been completed before the Bishop and the Examiners, it is also possible for those same [Bishop and Examiners] to prefer the one who possesses superior knowledge, over the one who, although perhaps less knowledgeable, appears to be more suited by his morals for governing the Church.

2 DECIMARUM. On February 5, 1876. Summary of the case. The parish priest of the Church of St. Martin in the Diocese of M. on March 15, 1873, having presented a petition, explained the following to the Sacred Congregation: "Before the Diocese of M. was established, within the territory of

Translated by churchlatin.ai, a product of Boyne Archives

Etruria, the neighboring Bishops of F. F. and B. extended their jurisdiction, even into a nearby part of Etruria, and there they had many parishes. The archpriestal and mother parish of St. Martin, located in Etruria, cannot be declared, after an absolute examination, to be absolutely without merit in relation to the parochial collation; for even if one is not more learned, and someone might be less learned, but more suitable for the parochial church; hence, after the examinations have been completed, a question must be raised concerning the collation of the parish, and therefore concerning the requirements of each [candidate]; and then it must be clearly and conclusively demonstrated that the Ordinary has chosen the less worthy in comparison to the more worthy..."

In order that the Sacred Congregation may admit an appeal from a report based on false information from the Examiners, or from an unreasonable judgment of the Bishop; although it may not seem to seek proof of the grievance; nevertheless, it sometimes wishes to taste of the smoke of the grievance, and of the unreasonableness of the episcopal judgment. And this is so that no one may rashly and without any reasonable cause consider himself aggrieved, and provoke a new examination, wasting time. In the present case, it seems that there is not merely smoke, but a serious suspicion; of a false report from the Examiners, and of an unreasonable judgment by the Bishop, concerning the unworthiness of one of the candidates for the performance of parochial duties. See Acta S. Sedis, Vol. VII, p. 416, and Vol. I, p. 616. 18 Acta, Vol. IX, section CI. 17.

[*Latin ed. p. 258*]

258 From the Sacred Congregation: "At that time, the Bishop B. possessed certain parish churches subordinate to him, which were in some way dependent on him, among which were two located within the ecclesiastical jurisdiction, named Colle A. and Mons M., with the right to collect annual tithes from these parishes, a right which he had enjoyed and from which he had benefited for a long time. However, when the new Diocese M. was established, the parishes of Colle A. and Mons M. were separated from the aforementioned Bishops, and all were transferred to Bishop M. Consequently, the Archpriest of Hetrusca, S. Martini, passed from the jurisdiction of Bishop B. to that of Bishop M.; and the two parishes of Colle A. and Mons M., being located within the jurisdiction of the Holy See, remained with Bishop B. Therefore, the Church of S. Martini lost these two subordinate parishes. When the time came to demand the tithes, the two parishes of Colle A. and Mons M. refused to pay them, following the precedent of the former Archpriest of S. Martini, because the Church of S. Martini was no longer their mother church, and therefore the reason for which they had previously paid tithes to it had ceased to exist. The Archpriest bore this deprivation with great distress, and did not yield to the reason given, and appealed to the Episcopal Curia of Bishop B., but no definitive response

Translated by churchlatin.ai, a product of Boyne Archives

was given. Not much time passed from the beginning of these controversies, and the delay was detrimental to him, and therefore he appealed to the Congregation of the Holy See for a solution."

Synopsis of the dispute: It was established without controversy that the Parish Priest of S. Martini, before the Diocese M. was established by order of the Holy Father, had peacefully and for a long time possessed the right to collect tithes from the parishes of Colle A. and Mons M. This is clearly evident from the letters sent by the aforementioned Ordinary to the Sacred Congregation for information. Therefore, the entire question presented was...

[*Latin ed. p. 259*]

In this matter, 259 pertains; namely, whether the arrangement of the Pontiff, by which the parish of St. Martin was assigned to Diocese M., while the parishes of Colle A. and Montis M. were assigned to Diocese B., could have caused the parish priest of St. Martin to lose his right to collect tithes from the aforementioned two parishes, or not.

FROM WHAT FAVORS THE RIGHT OF THE PARISH PRIEST OF ST. MARTIN.

It cannot be doubted that the arrangement of the Supreme Pontiff, of which we are speaking, did not abolish such a right. For, in order for someone to be deprived of an ancient and peaceful possession of their own right, it is necessary that the Supreme Pontiff expressly derogate from this right by the fullness of his power; or that a new order, introduced by the disposition of the Prince, be of such a nature and character that, by its own intrinsic force and reason, it excludes that right, as if it were incompatible with the new state of affairs. And it does not seem that this can be said in this case. Indeed, with regard to the first point, although the Pontiff can, by the supreme power with which he is endowed, take away a right sought from a third party, it should not be assumed (and this is a solemn principle of law) that he wishes to take away that right, unless he expressly and formally declares it. Thus, in chapter Pastoral 19 on Privileges, and in canon de Eccles. 25 q. 2, and in Canon Nunc 9 q. S., and in the Rule of the Chancery 18 on not taking away a right sought. Thus also, Eagnan, ad cap. Ceterum de rescriptis, and de Rubeis Decis. 217 p. IX tom. 1, Rec. says, "Hence it is that this axiom of law is sacred and inviolable, that unless there is doubt, it must be presumed that the Prince intended to dispose of something to the detriment or prejudice of another." But in the apostolic letters of the erection of the new Diocese, not a single word occurs by which the aforementioned right to collect tithes is derogated from; therefore, it cannot be supposed, nor should it be, that that right has been taken away from the parish priest of St. Martin; but rather, it seems that it should be

Translated by churchlatin.ai, a product of Boyne Archives

held to have been religiously preserved. The arrangement of the Pontiff, by which the Church of St. Martin was assigned to one Diocese, while the two filial churches were assigned to another Diocese, bears within itself the nature of tithes.

[*Latin ed. p. 260*]

260 From the Sacred Congregation, it cannot be said that the loss [of the right to collect tithes] on the part of the Parish of Saint Martin is due to the Parish itself. Indeed, no legal contradiction can be established, since the aforementioned Church, although presently belonging to the Diocese of M., cannot collect tithes from its filial churches of Colle and Monti, which now belong to the Diocese of B. Truly, no contradiction arises from the part of the filial churches. For the payment of tithes is nothing other than a burden or debt inherent to the Church from time immemorial. However, as long as the Church of Saint Martin legally exists, no reason appears to exist by which those indebted to the Church can be excused from fulfilling this obligation. Nor does any contradiction appear from the part of the Church of Saint Martin: for it has not, by this new arrangement of things, changed its nature or essence in any way; it has not failed in any of its conditions, and therefore not only is no contradiction found, but rather a strict obligation seems to exist on the part of the filial churches to pay tithes, as in times past, to the same. It cannot be said that the boundaries of the territory or Diocese have been changed, and therefore it is incongruous that the Church of one Diocese should collect tithes from churches of another Diocese. Indeed, it can be readily understood that rights and obligations do not depend on material territorial boundaries, nor is the debtor excused from the obligation to pay simply because the creditor has moved to another territory. Furthermore, just as in law, no contradiction appears to exist if the pastor of one parish, and therefore of one distinct and separate territory, can, if a legitimate custom exists, collect tithes from lands belonging to another parish, that is, another separate territory, so too, no contradiction appears to exist if a parish priest, established in ancient possession outside the boundaries of his own Diocese, can collect tithes. And truly, in our case, it is not a question of tithes on property...

[*Latin ed. p. 261*]

The matter of tithes is this: each person is obligated by common law to pay tithes to his own parish priest, from whom he receives the sacraments and other divine things, even if he derives profit from his labor elsewhere. The Abbot in C. ad Apostolicae 20, concerning tithes, number i, and there Barbosa, Pirhing concerning tithes, number 84, and Reiffenstuel, book III, Decretals, Title XXX, concerning tithes, § V, number 99: but it seems that this pertains more to those tithes which are heard of among the Doctors as pertaining to landed property; indeed, the Archpriest of St. Martin used to

Translated by churchlatin.ai, a product of Boyne Archives

receive from the owners of land in the two parishes of Colle and Monteu da Po certain measures of grain each year, as is evident from an inventory made in the year 1677. However, although it is most well-known that landed tithes are immediately due to the parish priest by common law within whose parish the lands are located (arg. L. Forum 4 ff. concerning censuses, and c. de terris 6 concerning tithes), nevertheless, as the Doctors unanimously note in Capite Cum sint 18 concerning tithes, and in cap. ad Apostolicae 20 concerning tithes, if the custom prevailed that parishioners should pay tithes not to another, but to their own parish priest, even from lands and properties located in another parish, then this custom should be followed. This is also clearly demonstrated by the fact that no canon of the sacred Canons prohibits one parish priest from receiving tithes from the lands of another parish, and therefore from collecting them outside of his own territory, if a just cause intervenes. Thus, also, when a parish is divided and a new one is established, the landed tithes belonging to the mother parish do not, by law, pass to the newly established parochial church; but they remain with the mother parish, unless the Bishop.

1 Decimes are things which are paid to the ministers of the Church in reason of the ministry of the sacraments. Other tithes are landed or real, while others are personal. Landed or real tithes are collected from the fruits of landed property; personal tithes, on the other hand, are compared from the profit or from the labor of a person, The tithes of which we speak here do not seem to be those which are due to the parish priest in reason of the administration of the sacraments; but rather those which are called landed tithes, and are due under another title, such as, in recognition of superiority.

[*Latin ed. p. 262*]

From the Sacred Congregation, a new instruction was assigned to the parish priest, according to the decree of the Council of Trent, as expressly stated in the Sacred Congregation's decree of March 11, 1617. Fagnan, *Decret*, in chapter 29 concerning tithes, number 42; Barbos, *De officio et potestate parrochi*, chapter 28, § 2, number 19; Reifenst., book 3, *Decret*, title 30, number 104, with the authority of the Council of Trent, Session 21, chapter 4, concerning reform. Indeed, from this principle it is also deduced that the parish priest of a parish church, having a certain just title, can collect tithes from lands within a newly established parish; even though, as everyone easily understands, this newly established parish constitutes a completely different and distinct territory. However, these external examples seem entirely useless, since the present controversy itself provides the clearest example concerning this matter. For the parish priest of Saint Martin has, from the most ancient times, and this is readily conceded even by his adversaries, customarily collected tithes from the lands of the two parishes of Colle A. and Montis M., and thus he openly demonstrates that

Translated by churchlatin.ai, a product of Boyne Archives

the boundaries of the territory do not impede him from legitimately enjoying a right lawfully acquired, and that he is able to do so. It seems that a similar case can also be said to occur when it is a question of separate diocesan boundaries, so that the parish priest must, indeed, cross the boundaries of his own parish, and also of his own diocese, in order to collect tithes. Once the principle is established that the difference in territory in no way impedes the right and collection of tithes, there is no apparent reason why someone should be able to collect tithes outside the boundaries of their own parish, and yet not be able to do so outside the boundaries of their own diocese. A single difficulty, perhaps, might be inferred from chapter 18 concerning tithes, where the Pope says, "If there are people in a parish of one church, as he asserts, who cultivate lands in another parish of another church; your discretion has not advised you, to whom the tithes of those lands should be paid, whether to those in whose parish they are located, or to those in whose parish they are established, or to those in whose parish they hear divine matters, and receive ecclesiastical sacraments." Indeed, with

[*Latin ed. p. 263*]

Decimarum 263: "This question has been raised frequently in times past by our predecessors, and has not been settled, with some asserting that the tithes are to be paid according to the territory, while others maintain that they are due according to the persons [residing there]; it is not easy for us to give a definite answer on this matter, since the authorities of the Holy Fathers are also diverse, and therefore, in such a doubt, we have considered it best to refer to custom, and also to consider whether the churches are in one diocese or in different dioceses. For it seems very difficult for one church in the diocese of another to receive tithes, since, from this, the boundaries of the diocese seem to be improperly confused." However, it seemed to the superiors that this principle did not apply to the Church of St. Martin. First, the nature of the matter considered by the Pontiff is very different from the present case, as is clear from the text itself. Secondly, Alexander III did not resolve the question according to his own judgment, because, indeed, the Fathers and predecessors had held various opinions on this matter; and he only stated that custom should be considered. Furthermore, and this seems worthy of note, the Supreme Legislator is to respond to a case that is doubtful; but He did not intend to prejudice a certain and ancient right acquired from time immemorial; as is the case, even with the adversaries admitting it, of the right to collect tithes, which the Church of St. Martin has peacefully enjoyed from time immemorial. Moreover, the very fact that the Pontiff asserts that it is difficult for one church in the diocese of another to receive tithes does not exclude the possibility; indeed, if this possibility can ever be put into practice, then it certainly can and should be, since in this case, an ancient and legitimate right seems to be at stake.

Translated by churchlatin.ai, a product of Boyne Archives

ARGUMENTS AGAINST ST. MARTIN. Since the Bishop of B. had stated certain things regarding the history of the matter, he presented the following arguments against the right of the aforementioned parish priest. FROM WHAT FOLLOWS CONCERNING THE PARISH PRIEST'S RIGHT.

[*Latin ed. p. 264*]

264. In primis, the Council considered that the core of the question lay in this: whether the Church of St. Martin, having been transferred under the jurisdiction of another Diocese, retains the right to collect tithes from parishes within the jurisdiction of the other Ordinary. Given this premise, it did not seem possible to apply the opinion of the majority of Doctors, namely that, generally speaking, the mother church retains the right to collect tithes within the territory of its daughter churches. For it was not proven that this was a true mother church; indeed, such a concept seems to be excluded. Moreover, since the "motherhood" of that church towards the aforementioned parishes could be demonstrated, it was not seen how the opinion of the majority of Doctors could be applied. For this opinion presupposes that both the mother church and the daughter churches remain under the same jurisdiction, and it is based on the hypothesis that the mother church retains a portion of the ancient rights within the territory of the daughter churches, as well as some vestiges of superiority, as a sign of the ordinary and complete jurisdiction that it has always had over them. But this is entirely contrary to what is being discussed, namely, parishes subject to a diocesan jurisdiction different from their own; for the separation of diocesan territory breaks all bonds of succession, and removes all notion of superiority and subjection with regard to the pastors of one diocese towards the pastors of another. And this should be even more evident when it comes to honorific prelacies, or the administration of the sacraments. Since the parish of St. Martin did not find in the Bull of dismemberment and erection of the Diocese any derogation of the rights and privileges of individual churches, it concluded that the rights of its church to collect tithes in the parishes of the Diocese of B remained intact. However, it is clear that it did not consider the opposition of canon law with regard to this matter; as can be read in Chapter 18 on tithes: "It seems very difficult that one church should receive tithes in the episcopate of another."

[*Latin ed. p. 265*]

Section 265: It has not been demonstrated that in such a territory, a division which, by its very nature, prejudices [the claim], it is useful to add a clause: without prejudice to the rights of third parties, and therefore, nothing can be deduced from the absence of such a clause. Indeed, even if a preservative clause had been expressly stated without prejudice to the rights of third parties, it would not have any effect. Nor is it permissible to invoke a prescription that has been in force for a long time; because this

Translated by churchlatin.ai, a product of Boyne Archives

prescription could not have begun to favor the Parish of St. Martin after the year 1850. However, after such a change in status, it becomes useless to invoke a prescription that is completed under various conditions, according to the maxim: custom, although a prescription, is not derived case by case. The Bishop M. agrees with what the Ordinary B. has stated, and added that the Archpriest of St. Martin has always received tithes from families, from time immemorial, including the parishes of Colle A. and Montis M. However, he considered it more expedient, in order to avoid lawsuits, that the Archpriest of St. Martin should abstain from exercising this right in the future; all the more so, because he enjoys a sufficiently ample benefit. With these and other considerations, it was deemed appropriate, with the prudence and judgment of the Cardinals, to resolve the following question. Whether the Orator had a valid right in this case.

RESOLUTION. The Sacred Congregation of Councils, having knowledge of the matter, considered it appropriate to respond on February 5, 1876: Negatively, and moreover.

THEREFORE, IT IS ESTABLISHED: I. That tithes, which are integrally due to any Church to which they are owed, must be paid by any person to whom the payment of tithes pertains.

[*Latin ed. p. 266*]

From the Sacred Congregation of the Council, Decree 268, II: Thus, those who are unwilling to pay, or who hinder others from paying, the tithes, are to be excommunicated according to Session 25, chapter 12, of the Council of Trent concerning Reforms, and they cannot be absolved from this crime unless full restitution follows.

III. Parishioners are to pay the tithes to their own parish priest because of the administration of the Sacraments; or even to another parish priest, provided that the tithes are due to him, either by privilege or by an ancient and well-established custom.

IV. Churches that are filial are to pay the tithes to the mother church, whenever the mother church retains at least a part of its ancient rights (as a sign of its full jurisdiction) and, whether by privilege or by an ancient and well-established custom, retains the right to collect tithes from such churches.

V. However, both the mother church and the filial churches subject to it must be under the same episcopal authority; or be contained within the limits of the same diocese. The mother church is entitled to the tithes.

The Sacred Congregation of the Council, in Rome, on June 8, 1676, decided that those who withhold tithes and convert them to their own use; or who prevent them from being fully paid to the churches or persons to whom they are legitimately due, are not, by the law itself, excommunicated, but are to be excommunicated (after due warning), and their absolution is

Translated by churchlatin.ai, a product of Boyne Archives

not reserved to the Apostolic See; but, after full restitution, it pertains to the Ordinary who pronounced the sentence of excommunication.

Parishioners and all those who are obliged to pay tithes may, at times, be exempted from paying the tithes by a privilege granted by the competent authority. But does a custom to the contrary have any force or effect in exempting parishioners from the payment of tithes? It is known that custom has the force of human law, according to 1. % C., which concerns "What is a long custom," in the chapter on "Custom," dist. I. It seems to me that one should respond to this doubt with a distinction: namely, distinguishing between a custom that takes the tithes away from the parish priest himself, so that no suitable support remains for him, and a custom by which the parish priest still retains a suitable support. In the first case, I would believe that the custom is invalid, because it offends divine and natural law, both of which command that a salary be paid to those who administer the divine cult; and this custom cannot be reasonable. In the second case, however, if a suitable support remains for the parish priest, I would believe that the custom is valid, because then only the obligation of human law remains, against which a custom can operate, provided that it is reasonable.

[*Latin ed. p. 267*]

Dispensation from irregularity 267 is granted to filial churches, although, henceforth, that right is certain and very ancient. VI. The diversity of dioceses seems to sever all ties of communion; and to remove entirely both the idea of superiority and of subordination with regard to the parish priests of one diocese towards the parish priests of another diocese. VII. Therefore, no one from the clergy can have the right to collect tithes from the clergy of another diocese: because it seems very difficult that one church should receive tithes in the episcopate of another, since, from this, the boundaries of the episcopates seem undeservedly to be confused. DISPENSATION FROM IRREGULARITY. December 11, 1875. Summary of the case. The Bishop A. S. strongly recommended the young man Joseph B. to the Congregation of the Council, requesting a dispensation from the irregularity arising from a physical defect. He stated, "Joseph B., about twenty years of age, with no apparent blemishes, but endowed with the best morals, 'from his early clerical life desired to dedicate himself to the ministry. 'But, being afflicted by a serious illness, he was forced to interrupt his studies; and, being seized by pain in the hip, it was, according to the judgment of the doctors, amputated. 'Although he is now lacking both a leg and a part of the hip, this deficiency has been remedied by a wooden prosthesis made so skillfully 'that he can stand, walk, and kneel without a crutch, and without anyone noticing his defect: regarding which, the undersigned, who has seen him, can and does attest. The aforementioned young man, although he has suffered this amputation, still burns with the desire to embrace the ecclesiastical state, and is deeply grieved if anyone should try to dissuade

Translated by churchlatin.ai, a product of Boyne Archives

him from this purpose. Since..."

[*Latin ed. p. 268*]

268 From the Sacred Congregation "However, the irregularity arising from such a defect is such that it is often the case that a dispensation is granted concerning this Holy See; therefore, before the aforementioned young man enters the theological seminary, lest he undertake this endeavor in vain, he implores, with fervent prayers and with a bowed knee, a dispensation concerning this irregularity, so that, after three or four years, he may be able to stand, walk, and kneel, and thus be promoted to the sacred orders." Having received these prayers, a letter was immediately written to the Bishop, so that, after an examination before the master of ceremonies, he might report whether the young man could properly perform all the actions of the holy sacrifice, and whether the admiration requested through the dispensation could be aroused in the people. Following the custom of the Sacred Congregation, the Bishop performed all that was commanded to him. Indeed, the examination was completed before two professors of the seminary and the master of ceremonies. "These," the Bishop reports, "were able to attest that the young man, without a cane or other support, proceeded from the sacristy to the main altar, and, holding the chalice with his hand, performed the genuflection before the altar, according to the rubrics, and also ascended the steps, and that nothing inconvenient could be noted. Thus, even without any apparent difficulty, he held the host with his hand, genuflected, and elevated it, as is proper. As for the admiration that might be aroused in the people through the requested dispensation, I do not hesitate to assert that it would be minimal, if it arose at all, because of the good reputation that the aforementioned young man has earned through his probity and piety; therefore, many even hope that his wishes may be fulfilled."

[*Latin ed. p. 269*]

Dispensation from Irregularity 269. A concise discussion.

FROM WHAT APPEARS TO BE FAVORABLE TO THE PETITIONER. It is certain that the seminarian B. is afflicted with a bodily defect to such an extent that he seems entirely unfit for the Orders; for, just as those who are maimed, lame, or paralyzed, being deformed, are kept away from the altar, because they might arouse either admiration or scandal among the faithful, so much more should he be rejected who has suffered the amputation of a foot. It does not seem possible in any way that the seminarian B. might escape the censure of irreverence; for, although he may now, in his flourishing youth, walk with sufficient speed with an artificial foot, nevertheless, as the years pass and his strength declines, it is certain that this defect will become very grave, and perhaps such that he will have to abstain entirely from the celebration of the sacrifice. Indeed, a dispensation

Translated by churchlatin.ai, a product of Boyne Archives

might be granted for a time, or at least conditionally, if the illness does not worsen; for a dispensation is not granted for the sake of advancement, but for the sake of promoting [the candidate], to whom a dispensation is always more difficult to grant; and it would seem ridiculous to bind a man with the bond of the sacerdotal character, who may perhaps be forbidden to perform sacred duties very soon. Furthermore, the Sacred Congregation of Clerics, in its practice, has denied dispensations even in milder cases. Indeed, when Fructuoso Borace, who was afflicted with a defect in his left hand, requested a dispensation, the petition was rejected, as can be seen in the records in Pampilona. Dispensation, September 13th and November 22nd, 1856. Likewise, a dispensation was denied to a cleric who had a deformed right hand in Patavina. Dispensation, April 27th, 1871, and to another cleric who had a defective left hand in Policastren. Dispensation concerning irregularity, March 21st, 1863. All of these were included among the Summaria Precum.

Given these circumstances, when the case involves a more serious defect, the dispen-

[*Latin ed. p. 270*]

270 From the Sacred Congregation, it seems that a dispensation should be denied, and even more so in these most sorrowful times, so that priests and sacred things may not be exposed to profane ridicule. BUT, on the other hand, it must be noted the reason why, in Chapter [referring to a chapter concerning a sick priest], it is not permitted for a priest physically infirm to celebrate: because neither can it be done securely due to weakness, nor without scandal due to the deformity of the member. However, in this case, there is no danger of irreverence; for the priest, without a staff or other support, proceeds from the sacristy to the altar, carries the chalice in his hand, makes genuflections, and performs all other things pertaining to the celebration of the sacrifice without difficulty. Neither admiration nor scandal can arise, because those who are ignorant do not even notice his defect; and those who do know the priest, because of the good reputation which the aforementioned young man has acquired through his probity and piety, ... desire that the rite may be completed with devotion. Therefore, since there is neither reason nor danger nor scandal, a dispensation seems entirely to be granted to him. Even more so, because it appears to be beneficial and necessary for the Church. Indeed, we are living in times in which it is not permitted for all who wish to bear the name of clerical service, for young men are compelled to follow earthly military service, and to live in *castris* [Castro de Ordiales]. Consequently, distracted by worldly affairs and the pursuit of a more abundant life, few young men desire to embrace the stricter discipline of the priesthood, and the ranks of ecclesiastical service are becoming rarer each day. In this new condition of the Church, when young men of the best character, and of good talents

Translated by churchlatin.ai, a product of Boyne Archives

and morals, request a dispensation from irregularity, it seems that some relaxation of the former rigor in granting such dispensations should be considered; for the faithful, seeing the example of good morals, do not seem to care about the physical defect.

[*Latin ed. p. 271*]

Regarding Dispensations from Infirmity: For what reasons, perhaps, have these been granted? The Congregation [of Religious] has not infrequently, in these recent times, granted dispensations to those who have either a slight physical impediment, or a stiff arm, or unequal legs, or other minor defects. Of these, omitting others, I will present only two examples, proposed in "Summaria Precum," which seem most similar to the present case. Indeed, on May 5, 1866, in Matelica, a dispensation was granted to a professed brother of the Order of Friars Minor of the Observance, who, because of a severe inflammation in his right knee, had to undergo the amputation of his leg up to a distance of four fingers above the knee, and who used an artificial leg. But because a professed brother does not seem to be unjustly equated with a layperson, I believe the example found in Borgomeno is more suitable to our case. Dispensations from infirmity were granted on September 22, 1866, and June 13, 1868. As in the present case, we are dealing with a cleric who had undergone the amputation of his left leg; however, he had a wooden leg so skillfully adapted that he only limped slightly. And although the Sacred Congregation, in its first response, stated that it did not deem it expedient, nevertheless, when the cleric more earnestly requested the favor, on June 13, 1868, it decided to respond again, stating: "Considering the particular circumstances, and in accordance with the opinion of the superiors, the request is granted." These are the arguments for and against, briefly presented regarding this rather serious matter. Then, for the sake of prudence, the matter was referred to the [appropriate] authorities to indicate what response should be given to the petitioner in this case.

RESOLUTION. The Sacred Congregation, having considered the matter, on December 11, 1875, decided to respond: "Considering the particular knowledge of the Bishop, the circumstances of the case, and in accordance with the opinion of the superiors..."

[*Latin ed. p. 272*]

From the Sacred Congregation of the Council, 272 JURISPATRONATUS. March 4, 1876. Summary of the case. Vincent Fogli, by will, dated May 7, 1599, bequeathed a portion of his estate to the Church of Saint Cassan, for the purpose of erecting and endowing an altar. He ordered that the patronage should remain with the family of Fogli; and that of that family, two who were older and more closely related by blood to the testator, should appoint the priest who, according to the judgment of Father Guardiano of

Translated by churchlatin.ai, a product of Boyne Archives

the Capuchin Order, at the time, possessed the greater knowledge. In the year 1834, matters progressed peacefully according to the testator's will; however, due to a vacancy in the benefice, two members of the Fogli family presented the priest Augustine Feletti, while two others presented Attilius Fogli, a cleric, to the Ordinary for appointment. A dispute arose, which the Episcopal Curia resolved in favor of the cleric Fogli, while the Metropolitan Curia, to which an appeal was made, resolved the matter in favor of the priest Feletti. Therefore, the priest Feletti retained the benefice peacefully for a long time, because the judgment of the Metropolitan Curia became final, with no appeal being made. However, due to the disturbances in Italiae, as civil laws sought to destroy the patrimony of the Church in every way, the beneficiary Feletti, along with his brother Ignatius, were forced to seek emancipation of the benefice, having first obtained the necessary permission from the Holy See and having submitted to all the conditions prescribed by the Sacred Penitentiary. These matters were scarcely completed in the year 1871 when the beneficiary Feletti died; therefore, more serious controversies arose between Ignatius Feletti, who immediately presented his son, Phelet, a priest, and three other members of the family of Fogli, who petitioned the Bishop within four months for the institution.

[*Latin ed. p. 273*]

Regarding the patronage of a certain priest, Attilius Fogli. But this man departed from life shortly thereafter; therefore, the priest Pheletus petitioned the Sacred Congregation for the possession of the benefice, since no other was present to offer opposition. The Ordinary, having been duly consulted regarding his opinion, responded that it should not be granted, and that he considered it unjust to grant the benefice to the Orator Pheletus, because the Episcopal Court should intervene in the matter of Attilius Fogli's right. Indeed, that same Court had already used its authority in granting benefices, if the circumstances had been present. This was because: 1.° The Orator named and presented only one, the sole heir, according to the will and codicil of the pious founder. 2.° He named and presented him, in the presence of those who held such a right from the founder: that is, two older members of the family, who named and presented the priest Attilius. Furthermore, the Ordinary reported that Ignatius, the Orator's father, had leased the benefice's property for nine years, contrary to Church laws, and had collected the advance payment for the lease. And this had been ascertained by trustworthy men.

A concise summary of the arguments:

Regarding Ignatius Pheletus: The lay patron is granted four months by the Holy Canons to present the candidate for the benefice; and this time begins from the day certain knowledge of the vacancy of the benefice is received; chapter S, concerning concessions of benefices. If, within the limits of this time, the presentation is not made, either through negligence, or

Translated by churchlatin.ai, a product of Boyne Archives

because the patron did not convene, then immediately, upon the expiration of that time, the collation of the benefice reverts to the one to whom the institution belongs, argument from canon E, and chapter "cum propter h. t." Barbosa, on the office and power of the Bishop, allegation 72, number 141, and 168; the Abbot in chapter "quoniam 3 h. t."; Fagnanus, chapter "cum autem 24 h. t." "cum communi." The reason for this is so that the Church may not be unduly delayed in appointing rectors, which, as is well known, results in great harm. In the case at hand, the benefice, Acts, volume IX, page 18.

[*Latin ed. p. 274*]

From the records of the Council concerning which we are speaking, it appears that the year 1871 passed without any action; and since, after the death of Atilius, another presentation took place, made by the true patrons according to the terms of the will. Nor does the presentation of the orator present an obstacle; 1.° because the priest Pheleth was presented by only one patron, whereas, according to the regulations, the presentation ought to have been made by two patrons, who should be older in age and closer in blood to the institution. 2.° Because the presentation of Pheleth was made by one who did not have the power to do so, and because his father, who presented him, was not of the required age. Therefore, since two individuals possessed the necessary qualifications, and did not complete the nomination in due time; and since the nomination of Pheleth was invalid for this reason, it necessarily follows that the right to appoint had devolved upon the Bishop. Furthermore, Ignatius Eeletti could not validly oppose the alienation of the benefice; for he himself, together with his brother, the priest Augustine, who at that time held the benefice, had made such an alienation, in order to demonstrate that a private right of nomination belonged to them, above all other testamentary patrons. For if he has taken the benefice from the treasury, he has fulfilled the duties and obligations that are due to him as a patron by right. Indeed, a patron, besides the honors, has also burdens and duties to fulfill; among which it is prominent to protect and defend the Church; which is done by watching over it and, with due diligence, taking care of its goods; so that they are not squandered by the rector or ministers, or even by others, or used improperly, or contrary to the purpose intended by the founder. Canon 5, reason 16, question 7. Therefore, such a claim does not grant him a new title in this case, nor any right of priority or preference to the detriment of other patrons. Moreover, although it is not clear that these individuals sought to claim the benefice, it does not appear that they omitted to do so out of negligence or ill will concerning the disposition of the Church; but rather because they were neither warned nor called. Nor would it be more reasonable to say that, according to the law of Italica of 1867, the patron is released from all bonds,

Translated by churchlatin.ai, a product of Boyne Archives

and is to be considered the one who claims ownership.

[*Latin ed. p. 275*]

Patronage, 275, harms. For it is clear to no one that civil laws are of no force in ecclesiastical matters; and moreover, the decrees of the Holy Penitentiary concerning this matter are entirely different. However, granted that Ignatius, either through reasons presented by himself, or by right of presenting a testament, is entitled to [something]; nevertheless, it must be said that he has lost this right through his action; because it appears that he has leased the goods of the benefice for nine years, and has taken an advance payment for the lease. Indeed, this kind of contract is entirely disapproved of by the Church, because it assumes the appearance of alienation, and falls under the express sanction of Pope Paul II in the Constitution *Exit Vacantis*, concerning ecclesiastical matters, which prohibits the alienation of: "all things and goods of the Church, and every pact by which their dominion is transferred, concession, mortgage, lease, and condition for more than three years... which we forbid to be made by this present constitution, that they may always be valid." From these words, it is clear that the leasing of the goods of a benefice, and the fruits and revenues thereof, is prohibited; for both the fruits and revenues of a benefice are things and goods of the Church, since they come from the Church, and are assigned to its ministers for the sake of the divine ministry. Nor is it otherwise, as the Holy Rota decided in one case, concerning leases, on March 20, 1600, before Pamphilius, in which it was resolved that, just as the goods of the Church cannot be leased for more than three years, so neither can the fruits [thereof]. Therefore, patrons have no power, nor jurisdiction, over the goods of the Church, and therefore they cannot appropriate anything from these goods to themselves, nor convert them to their own benefit, except that which belongs to them by institution and foundation. Council of Trent, Session 24, chapter 3, and especially Session 25, chapter 9, in the middle.

FROM THINGS THAT SEEM TO FAVOR IGNATIUS. It is certain that, while a legal dispute is pending, it is forbidden to innovate anything, so that any attempted innovation is rendered null by law itself. In many places...

[*Latin ed. p. 276*]

276 From the Sacred Congregation, this is indicated, but especially in Chapter 1, concerning Expenses, paragraph 6, where it is stated: "We decree that if (among those who are litigating before the Apostolic See, or elsewhere, concerning elections held for themselves in a certain order), someone should die, or renounce his right, or, by some means, be excluded from the process, then, until the litigation concerning the remaining candidate(s) in the election is resolved, no further proceedings shall be held for the election. Otherwise, any election attempted in defiance of this shall be

Translated by churchlatin.ai, a product of Boyne Archives

considered null and void, and shall not be valid by law.") The reason for this decree is based on Canon 41, concerning legal regulations, paragraph 6: "A duty does not belong to one who is not legally established, if he does not perform what was required of him." This is also stated in Chapter 41, concerning elections, where it is decreed that time does not run during a just impediment, since the Church is the mother and guardian of justice. Similarly, the Sacred Congregation, in its response of March 22, 1755, concerning the suppression of benefices in Calaritana, stated that a possession obtained during a pending litigation concerning a benefice before the Holy See is considered to be challenged, and therefore must be restricted. From this, it is clear that the power to revert the nomination could not have been granted to the Bishop. Furthermore, ecclesiastical jurists note that time does not run for patrons, and therefore Bishops cannot, during a litigation lasting more than four months, confer a benefice, if the litigation, as in this case, is between the patron and the presentee, or between the presentees themselves. Fagnan, in chapter 3, paragraph 19, citing Rotam. Barbosa on the office and power of Bishops, Alleg. 72, number 41. The reason is that chapter 3 and other laws granting the Ordinary the power to confer a benefice during litigation only speak of the case where the litigation is between the patrons themselves; therefore, they cannot be extended to similar cases, even if there were a similarity of reason. Therefore, it seems that the power to nominate cannot be reverted to the Bishop, but belongs to Ignatius, and he can object that he is not one of the senior members of the family, because this is contrary to the truth, as the genealogical tree demonstrates.

[*Latin ed. p. 277*]

277. The patronage belongs solely to the Fogli family, being closer to the testator; therefore, the right of patronage pertains only to them. It does not seem possible that the aforementioned family has lost the right of patronage, because it has not been sufficiently proven that the property of that benefice was let for a period of nine years; the Ordinary states that he has only heard of such a lease from men worthy of belief. And because we are dealing with a matter that is strictly to be understood, it must not be extended from case to case, unless the express words of the law require it; for it is fitting that restrictions should be applied to things that are to be avoided, and that favors should be extended. Therefore, it seems that the cited texts concerning leases of more than three years cannot be applied to our case. Although it is undoubtedly true that leases for more than three years are condemned by the sacred canons, and are equated to alienation, it does not follow in all respects; or, at least, not in regard to the effect of depriving anyone of the right which a patron possesses; since there is a great difference between alienation and a lease. Special laws exist in the law concerning the rights pertaining to patrons; therefore, it is not necessary to

Translated by churchlatin.ai, a product of Boyne Archives

refer to laws concerning other matters and to extend them to this case. Even if the patron (as has been asserted without sufficient proof) has sinned by truly entering into a contract contrary to the prohibition of the Church, the property can be revoked from him, without inflicting upon him a penalty so exorbitant, namely, the deprivation of the right to nominate. For in this case, the patron becomes commendable towards the pious cause because of the operation of emancipation, and is worthy of consideration for his care and diligence in protecting the goods of the Church. With these and other things noted, the doubts proposed to the Most Eminent and Reverend Fathers have been explained. I. Whether the presentation made by Ignatius is valid; or rather, whether the right of presentation has devolved upon the Bishop in this case. And to both, the answer is negative.

[*Latin ed. p. 278*]

278 From the Sacred Congregation of Councils, II. Whether a new presentation should be required in the case of a failure to proceed with the institution. RESOLUTION. The Sacred Congregation of Councils, after discussion, on March 4, 1876, decided as follows: To I, affirmatively to the first part, negatively to the second. To II, provision is made in the first. CONSEQUENTLY, IT IS DECREED: I. The Sacred Canons grant only to a lay patron a period of four months for presentation; which period begins to run from the day on which the patron has certain knowledge of the vacancy of the benefice. II. If such a four-month period elapses, either through the negligence of the patrons, or because the patrons have not agreed among themselves in the presentation, "and a dispute arises among them," then for that occasion, the collation of the benefice should devolve to him to whom the institution pertains. III. However, according to the Doctors, the benefice should not devolve to the Bishop, even after the useful time has elapsed, whenever a dispute arises among the presented candidates, or even between the patrons and the presented candidates. IV. It appears that a valid presentation was made by Ignatius; therefore, the benefice should not devolve to the Bishop; both because there was no dispute among the patrons, and because Ignatius appears to possess, above the others, the qualities desired by the institution. V. The spirit of the Sacred Canons, with regard to such a limitation of time for patrons, should be understood in this sense: that the Church may not unjustly deprive its widowed rectors, to the grave detriment of those same Churches.

[*Latin ed. p. 279*]

FROM THE HOLY CONGREGATION FOR INDULGENCES. By the Brief of the Most Holy Pope Pius IX, granting various indulgences to those who recite the Office of the Immaculate Conception.

PIUS PP. IX. FOR THE PERPETUAL REMEMBRANCE.

Translated by churchlatin.ai, a product of Boyne Archives

Those things which seem suitable and fitting to excite love in the hearts of the Christian faithful towards the Most Holy Immaculate Mother of God, we are wont to grant readily, when they are requested of us; for to us shines the surest hope that the Blessed Virgin, invoked by the prayers and supplications of the faithful, will obtain forgiveness from the Divine Mercy and benefits for the Christian people. Wherefore, when the Venerable Brother Charles Frederick of Séez has made it known to us that it is his greatest desire that we would deign to grant spiritual indulgences for the recitation of the small Office of the Immaculate Conception of the Blessed Virgin Mary, which was approved by the Congregation of Sacred Rites on the 17th day of December in the year 1875, we have judged it fitting to assent to such pious desires and to provide for the good of all the faithful. Therefore, to all and each of the Christian faithful of both sexes, who, with contrite hearts, have devoutly recited the aforementioned entire Office of the Immaculate Conception of the Blessed Virgin Mary, three hundred days shall be granted; and those who recite only the antiphon "This is the Virgin, etc.," with the verse "In thy Conception, etc.," and the response "Pray for us to the Father, etc.," and the prayer "O God, who through the Immaculate Conception of the Virgin, etc.," we provide, for the convenience of the readers, a copy of this Office annexed to the aforementioned Brief, for which certain indulgences had been requested by the Ordinary of Séez in France, and for some only who recited the same in his Diocese. But the Most Holy Father granted the same indulgences to all Christian faithful of both sexes throughout the universal Church who recite the same Office.

[*Latin ed. p. 280*]

280. From the decree of the Sacred Congregation for Indulgences, it has been approved that those who piously recite this [office] shall, for each recitation, be granted one hundred days of indulgence from those penances that have been imposed upon them, or from any other debts of penance, according to the custom of the Church; and we grant that these relaxations of penances may also be applied to the souls of the Christian faithful who, united with God in charity, have departed this life, as a form of suffrage. This applies to all, notwithstanding any objections to the contrary. These present decrees are valid for the present and for all future times. Furthermore, we wish that if any other indulgence has been attached to this aforementioned office and antiphon, it shall be null and void after these Letters; and that these present Apostolic Letters be presented to the office of Indulgences and Sacred Relics of the Apostolic Secretariate. Given in Rome, at St. Peter's, under the Fisherman's ring, on the thirty-first day of March, in the year 1876, in the thirtieth year of Our Pontificate. F. Card. ASQUINIUS. These present Apostolic Letters were exhibited in the form of a Brief, dated in Rome on the 31st of March, 1876, in the Secretariate of the Sacred Congregation for Indulgences and Sacred Relics, according

Translated by churchlatin.ai, a product of Boyne Archives

to the prescriptions in the decree of the same Sacred Congregation dated April 14, 1856. In witness whereof, etc. From the Secretariate of the same Sacred Congregation, on the 6th of May, 1876. Dominicus Sarra, Substitute.

OFFICE OF THE IMMACULATE CONCEPTION OF THE BLESSED VIRGIN MARY, APPROVED BY THE DECREE OF THE SACRED CONGREGATION OF THE HOLY OFFICE IN THE YEAR 1679.

For Matins.

v. "O my lips, now announce." (R.) Praises and acclamations of the blessed Virgin.

i. "O Lady, hear my prayer."

i. "Protect me powerfully from the hand of the enemies."

[*Latin ed. p. 281*]

The Office of the Immaculate Conception, 281. Glory be to the Father, etc. Alleluia. From the beginning of Septuagesima until Easter, the word "Alleluia" is said in place of "Laus tibi, Domine, Rex aeternae gloriae." HYMN. 1. Hail, Lady of the world, Queen of the Heavens: Hail, Virgin of Virgins, Morning Star. 2. Hail, full of grace, shining with divine light: Lady, hasten to help the world. 3. From eternity, the Lord ordained you, Mother of the only-begotten Word, by whom He created. 4. The earth, the sea, and the heavens: He adorned you, a beautiful bride, who did not sin in Adam. Amen. jL God chose her and preferred her, R). He makes her dwell in His tabernacle. jL Lady, protect my prayer. ii). And let my cry come to you. LET US PRAY. Holy Mary, Queen of the Heavens, Mother of our Lord Jesus Christ, and Lady of the world, who forsake no one and despise no one; look upon me, Lady, with a merciful eye, and obtain for me, through your beloved Son, forgiveness of sins: that I, who now with a devoted heart recall your holy and immaculate Conception, may attain to eternal blessedness in the future, through Him, whom the Virgin bore, our Lord Jesus Christ, who lives and reigns with the Father and the Holy Spirit, in perfect unity, God for the ages of ages. Amen. f. Lady, protect my prayer. R). And let my cry come to you. t. Let us bless the Lord. R). Thanks be to God. t. May the souls of the faithful, through the mercy of God, rest in peace. Amen. For the First Hour. t. Lady, attend to my help, R). Protect me powerfully from the hand of the enemies. Glory be to the Father, etc.

[*Latin ed. p. 282*]

From the Sacred Congregation of Indulgences, HYMN. 3. Thou art the Mother of the living, And the Gate of the Saints: New star of Jacob, Lady of Angelorum. 4. Terrible to the wicked, Host of the camps: Be thou the gate and refuge of Christians. Amen. 1. Hail, wise Virgin, House dedicated to God: Pillar adorned with seven branches and wisdom. 2. Preserved from all contagion of the world, Before being conceived in the womb of the Mother, she was sanctified. f. He created her in the Holy Spirit. R) Lady, protect us,

Translated by churchlatin.ai, a product of Boyne Archives

etc., with the prayer as above. After the Third, t. Lady, come to our aid, etc. HYMN. 1. Hail, Ark of the Covenant, Throne of Solomon: Beautiful arch of the heavens, Bush of the vision; 2. Branch sprouting with shoots, Fleece of Gideon; Gate closed by divine power, and the honeycomb of Samson. 3. She was so noble that she was foretold to be born free from the original stain of the mother Eve: 4. The Blessed One, whom He had chosen to be truly the Mother: Allowing no fault to attach to her at all. Amen. jL I dwell in the highest heavens, R) And my throne is in the pillar of the cloud. ji. Lady, protect us, etc., with the prayer as above. After the Sixth, y. Lady, come to our aid, etc. HYMN. 1. Hail, Virgin who gives birth, Temple of the Trinity: Joy of the angels, Heaven of purity; 2. Consolation of the sorrowing, Garden of the will: Palm of patience, Cedar of chastity. 3. Thou art a blessed land, And a priestly land, Holy and free from original sin. 4. City of the Most High, Eastern gate, In thee is all grace, O singular Virgin. Amen.

[*Latin ed. p. 283*]

Office of the Immaculate Conception, 283. As a lily among thorns, B. Thus, my friend among the daughters of Eve. J. Lady, protect us, etc., with the prayer as above. At None, f. Lady, come to help us, etc. HYMN. 3. O strong woman, and Judith, who invites! Beautiful Abisai, virgin, Nourishing the true David! 4. Rachel bore the guardian of Egypt: Mary bore the Savior of the World. Amen. 1. Hail, city of refuge, and tower fortified by David, Marked with shields and weapons. 2. In ConcepciÃ³n, inflamed with charity, The power of the dragon is crushed within you. 3. You are all beautiful, my friend. R. And the stain of original sin was never in you. J. Lady, protect us, etc., with the prayer as above. At Vespers, f. Lady, come to help us, etc. HYMN. 1. Hail, hour when the sun retreats in ten lines, The Word made flesh. 2. Man, raised from the depths to the summa, Is diminished by the angels. 3. Mary shines with the rays of this sun; The rising dawn gleams in her conception. 4. Lily among thorns, Who crushes the serpent's head; Beautiful as the luna, Instructing the wandering. Amen. I have made in the heavens that a light might shine forth. R. And as a cloud, it covered all the earth. J. Lady, protect us, etc., with the prayer as above. At Compline. J. Convert us, O Lord, through the prayers of Jesus Christ, your Son. R. And turn away his wrath from us.

[*Latin ed. p. 284*]

284 From the Sacred Congregation of Indulgences, *Domina, in adiutorium meum intende*. (Lady, attend to my help.) *R). Me de manu hostium potenter defende.* (Powerfully defend me from the hand of the enemies.) *Gloria Patri et Filio et Spiritui Sancto.* (Glory be to the Father, and to the Son, and to the Holy Spirit.) HYMN. 1. Hail, Virgin, flourishing Mother, undefiled, Queen of mercy, crowned with stars; 2. Above all the Angels, pure, immaculate, And standing at the right hand of the King, clothed in

Translated by churchlatin.ai, a product of Boyne Archives

gold. 3. Through you, Mother of grace, Sweet hope of the guilty, Shining star of Stella Maris, Port of the shipwrecked. 4. Open gate of heaven, Health of the infirm: Let us see the King in the tabernacle of the Saints. Amen. *f. Oleum effusum, Maria, nomen tuum.* (Ointment poured out, Mary, is your name.) *R). Servi tui dilexerunt te nimis.* (Your servants have loved you exceedingly.) *f. Domina protege etc.* (Lady, protect, etc.) with the prayer as above. HYMN. 1. We offer to you, pious Virgin, These praises of Lodi: Make us to walk in the way. *R). Deo gratias.* (Thanks be to God.) 2. Lead us in a prosperous course, And in agony, Assist us, O sweet Mary. Amen. Prayers added to the office for the Immaculate Conception – to be recited at will: *Tota pulchra es, Maria* (You are all beautiful, Mary) – And the original sin is not in You – You are the glory of Jerusalem – You are the joy of Israel – You are the honor of our people – You are the advocate of sinners – O Mary! O Mary! – Most prudent Virgin – Most merciful Mother – Pray for us – Intercede for us – To the Lord Jesus Christ. Antiphon. Your conception, O Virgin, Mother of God, announced joy to the entire world; for from you was born the sun of justice, Christ our God, who, loosening the curse, gave the blessing, and, confounding death, gave us eternal life. In place of the aforementioned prayers – *Tota pulchra* and the Antiphon *Conceptio tua* – can be substituted. Antiphon. This is the Virgin, in whom there was neither the knot of original sin, nor the bark of actual guilt.

[*Latin ed. p. 285*]

Office of the Immaculate Conception, page 285. I. In thy Conception, O Virgin, thou wast immaculate. (Response). Pray for us to the Father, from whom thou didst bring forth the Son. LET US PRAY. O God, who through the immaculate Conception of the Virgin prepared a worthy dwelling for thy Son; we beseech thee, that as through the death of the same Son thou didst preserve her from all stain, so also grant that through her intercession we may be made clean and arrive at thee. Through the same our Lord Jesus Christ, etc. Amen.

SÉEZ. The Most Reverend Charles Frederick Rousselet, Bishop of SÉEZ, at the supplication of certain individuals, requested from His Most Holy Lord Pope Pius Ninth: 1. That the recitation of the Office of the Immaculate Conception of the Blessed Virgin Mary, which he proposed, and which is said to have already been approved by the Sacred Roman Universal Inquisition, be permitted in the choir of the Church of the Immaculate Conception, attached to the minor seminary of SÉEZ, in which church there were five chaplains to whom it is incumbent to recite, besides the Divine Office, also the aforementioned Office of the Immaculate Conception. 2. That he would deign to grant anew the Indulgence of three hundred days, which, it is said, was granted by the Blessed Pope Gregory XVI to all who recite the entire Office, and also the Indulgence of one hundred days to those who recite only the Antiphon: "This is the Virgin in whom..." etc., with the following

Translated by churchlatin.ai, a product of Boyne Archives

"Let us pray" and the following prayer, which, it is said, was granted by the Blessed Pope Paul V.

The aforementioned requests, having been presented to the Holy Roman Church through the undersigned Secretary, the Sacred Congregation, having heard the opinion of the Most Reverend Augustine Caprara, Assessor of the same Congregation, replied as follows: Regarding the granting of permission for the recitation of the small Office in the choir, according to the model which is found in the aforementioned authentic copy: as for the Indulgences, let the petitioner pray.

[*Latin ed. p. 286*]

From the Acts of the Consistory to the Secretariat of Briefs. And thus it was reviewed and approved on December 17, 1875. This is found in the Acts and Records of the Secretariat of the Congregation for Sacred Rites. In witness whereof, etc. From the same Secretariat, this day, January 26, 1876. For the Reverend Father Placid Ralli, Joseph Ciccolini, Substitute. Nominations of Bishops and descriptions of the Churches over which they preside. On June 26, 1876. The Most Holy Father, in the Consistory held on July 26, 1876, proposed the following Churches: The Metropolitan Church of Lugdunum, and Vienna, vacant through the death of the Most Reverend James Mary Achilles Ginoulhiac, the last Archbishop of that See, who died outside the Roman Curia; The Most Holy Father presented the Most Illustrious Man, Maurice de MacMahon, Duke of Magenta, President of the French Republic, for nomination to the aforementioned Metropolitan See, the Reverend Father Ludovic Maria Joseph Eusebius Gaverot, whose qualities have been approved by the Apostolic See, who, since April 1849, was the Prefect of the Church of Sancti Deodati. Having accepted the office of consecration, he approached the See assigned to him, resided there, and diligently examined both the See and the diocese, performed sacred ordinations, solemnly celebrated pontifical Masses, administered the sacrament of Confirmation, and delivered sermons to the people. Lugdunum, a most famous city of Galliae and the capital of the province of Rhodania, built partly on the plain and partly on hills, near the confluence of the rivers Araris and Rhodani, is approximately three hundred and forty...

[*Latin ed. p. 287*]

From the Consistorial Acts: 287,000 inhabitants, mostly Catholics, under temporary French dominion. The Metropolitan Church, a spacious, fitting, and Gothic structure, boasts the title of Saint John the Baptist, and five bishops are subject to it. Its chapter numbers ten titular canons, several honorary canons, of whom two perform the office of penitentiaries, and several chaplains, to whom other priests and young seminarians are assigned for divine service. Through the Canon-Archpriest, assisted by two vicars, the care of souls is exercised in the Metropolitan Church, where there are many

Translated by churchlatin.ai, a product of Boyne Archives

relics of the saints, among which are the Heart of Saint Vincent, brought by Paul, and the Body of Saint Exuperius the Martyr, preserved with the greatest reverence. Furthermore, thirty-four parish churches are counted in Lugdunum, all equipped with baptismal fonts, as well as several houses of religious men and women, some lay sodalities, three hospitals, a pawnbroker's, a large seminary, and five smaller ones in the archdiocese. The extent of the archdiocese extends to the provinces called Rhône and Loire, encompassing over one hundred and twenty thousand inhabitants, and many other places.

The Metropolitan Church of Albi is vacant, due to the death of the Most Reverend John Paul Francis Mary Lionnet, the last Archbishop, who died outside the Roman curia; the Most Holy See, for the nomination, transferred to the aforementioned Church the Most Reverend Stephen Aemilius Ramadiè, whose qualities have been approved by the Apostolic See, who was brought from the diocese of Elne in March of 1865. Having accepted the office of consecration, he came to the church entrusted to him, resided there, and diligently visited both the church and the diocese.

Albi, or Alba Helviorum, also called Albiga, is a city in France, in the province of Tarn, located on the plain near the Rhône River, and enjoys the best air, and is inhabited by approximately fifteen thousand Catholic inhabitants under temporary French dominion. The Metropolitan Church, of sufficient size and magnificent structure, boasts the title of Saint Cecilia the Virgin and Martyr, and four bishops are subject to it. Its chapter numbers ten titular canons, including a theologian and a penitentiary, as well as several honorary canons, to whom other priests are added, along with seminarians and boys from the choir who serve in the divine office.

[*Latin ed. p. 288*]

288 From the Consistorial Acts, carried out by the Canon-Archpriest, with the assistance of certain Vicars, the pastoral care of souls is exercised in the Metropolitan area. Furthermore, two parish churches are mentioned, both equipped with baptismal fonts, as well as two monasteries of women, several lay sodalities; a large hospital in the city, and three small seminaries in the archdiocese; but a greater provision for piety is desired. The extent of the archdiocese encompasses the entire province of Tarn, and it contains many other places. The ARCHIEPISCOPAL CHURCH OF SELETJCIEN is located in a region inhabited by non-believers, and was assigned the titular presbyteral title of Saint Marcellus during the lifetime of the Most Reverend and Most Reverend Lord Salvator, a Cardinal Priest of the Holy Roman Church, the Noble Vitelleschi; His Holiness appointed the Reverend Caesar Roncetti to that same church, a man born in Rome of legitimate, Catholic, and honorable parents, and who had already surpassed his forty-second year. Ordained to the priesthood, and having previously received a doctorate in both Canon and Civil Law, as well as in philosophy and the-

Translated by churchlatin.ai, a product of Boyne Archives

ology, he had not yet lacked in ecclesiastical functions. He was appointed Emeritus Censor of the Theological Academy of the Roman Archgymnasium, Professor of Canon Law at the Pontifical Lyceum of the Roman Seminary, and Official in the Sacred Congregation for the Propagation of the Faith, dealing with matters of the Eastern rite. He was also added to the number of those who attend the private audiences of His Holiness, as a theologian for the Ecumenical Council of the Vatican, as an auditor for the extraordinary mission to the Turkish Emperor, and in the service of the Most Reverend and Most Reverend Lord John, Cardinal Priest of the Holy Roman Church, Mac-Closkey. The Archbishop of Neo-Eboracensem, having fulfilled the duties entrusted to him by the aforementioned Holiness, has resigned from his position as Canon of the distinguished Collegiate Basilica of Saint Mary of the Martyrs. Seleucia, a sufficiently large and renowned metropolis of Asia, located in Syria, is still held by non-believers; therefore, its miserable condition is passed over in silence. The CATHEDRAL CHURCH OF ELNENS is vacant, due to the transfer of the Reverend Father Stephen Aemilius Ramadiè to the Metropolitan See of Albiensem; His Holiness appointed the Reverend Father Joseph Frederick Saivet to the aforementioned church, whose qualities had been approved by the Apostolic See, having previously been the Prefect of the church of Mimatensi in March of 1873. Papirianum, or Perpinianum, is the seat of the Bishop of Elnensis; formerly the city of the County of Ruscinon, and today the capital of the province of Pyrenees.

[*Latin ed. p. 289*]

From the Consistorial Acts, 289 Eastern villages are visible, built on a plain, enjoying a healthy climate, and inhabited by approximately twenty thousand Catholic residents under temporary French rule. The Cathedral Church, quite spacious and beautiful, boasts the title of Saint John the Baptist, presenting an elegant structure, and serves as a suffragan to the Archbishop of Albi. It has eight titular Canons, among whom are a theologian and a penitentiary, who constitute its Chapter, and it also includes several priests, to whom are added seminarians and boys serving in the choir. The parish priest exercises pastoral care within the Cathedral itself. There are also four other parish churches, one with a baptismal font, several houses for religious women, a few lay sodalities, two hospitals, and, furthermore, a large one and a small seminary within the diocese; however, a house of piety is lacking. The territory of the diocese encompasses the entire province of the Eastern Pyrenees, and includes many other places. The EPISCOPAL CHURCH OF DIOCLEA is vacant, formerly under the Archbishop of Laodicea, in lands among the infidels, due to the death of the Most Reverend John Bossmann, the last bishop, who died outside the Roman curia. The Holy See has appointed the Reverend Father Salvatore Nappi, already a bishop of Nerito, as its Auxiliary, and has appointed the

Translated by churchlatin.ai, a product of Boyne Archives

Most Reverend Bartholomew, Cardinal of the Roman Church, Bishop of Avanzo, Bishop of Calvens, and Bishop of Teano, to perform pontifical and other pastoral duties in that place, with their consent and at their discretion, both in the city and in the diocese. Dioclea, or Dioclea, or even Docela, a large city in Phrygia, near Lydia and Amorium, still groans under the yoke of the infidels; therefore, its miserable condition cannot be described. The CATHEDRAL CHURCH OF SITESSION is vacant, having been relinquished by the Reverend Father John Peter Dours, who willingly transferred it to the hands of the Holy See, and was accepted by the same; the Holy See has appointed the Reverend Father Odo Tribaudier to the aforementioned church, whose qualities have been approved by the Apostolic See, since in March of the preceding year, 1875, he was the prefect of the church of Sidon. Having accepted the office of consecration, although he cannot access the church entrusted to him, as it is held by the infidels, as the former Archbishop of Lyons, *AuAota, vol. IX, p. CH 19*.

[*Latin ed. p. 290*]

From the Acts of the Consistory, the vacant archiepiscopal see, and its dependencies, the "Capital Vicarius" performed the sacred ordinations, solemnly celebrated the pontifical rites, administered the sacrament of Confirmation, and diligently fulfilled other pastoral duties. Noviodunum, or Augusta Suessionum, commonly known as Soissons, a city of the province of Aisne, built on a plain in a favorable location, is inhabited by approximately twelve thousand people and is currently under temporal French rule. The Cathedral Church, a spacious and beautiful Gothic structure, is dedicated to the holy martyrs Gervasius and Protasius, and serves as a suffragan to the Archbishop of Reims. Its chapter consists of nine titular canons, among whom are a theologian and a penitentiary, as well as several vicars and other priests, to which are added alumni of the seminary and boys serving in the choir. The care of souls in the Cathedral is exercised by the Canon-Archpriest, assisted by three vicars, where the relics of several saints are venerated, especially those of the city's patrons, Gervasius and Protasius, and of the diocesan patrons, Xystus and Sinirus. Furthermore, in the Suessionensi suburb, there is a parish church with a baptismal font, several religious houses for both men and women, some lay sodalities, two hospitals, a large and a smaller seminary; but a house of piety is desired. The territory of the diocese encompasses the entire province of Aisne and includes several locations, with a population of approximately six hundred thousand inhabitants.

The EPISCOPAL CHURCH OF AMORIUM, under the Archbishop of Synna, is vacant due to the death of the Most Reverend John Baptist Swinkels, the last bishop, who died outside of Rome; the Most Holy See has appointed the Reverend Father Salvatore Maria Nisio to that church, whose qualities have been approved by the Apostolic See. He

Translated by churchlatin.ai, a product of Boyne Archives

had previously served as prefect of the Arianensi church since September 1875. Recently, due to his infirmity, especially his poor eyesight, he was dismissed from that church by the Most Holy See, and he was accepted; but he is worthy to be appointed to the Episcopal See of Amorium, in a region among the infidels. Amorium, or Amorius, frequently mentioned in the books of the Councils, is a city in Phrygia, located between Synnada and Apamea, and is currently miserably subject to the yoke of the infidels; therefore, its condition is passed over in silence.

The CATHEDRAL CHURCH OF ASCULUM, in Picenum, is vacant due to the death of the Most Reverend Elijah Anthony Alberani, the last bishop, who died outside of Rome.

[*Latin ed. p. 291*]

From the Consistorial Acts, the court of the deceased; His Most Holiness promoted to the newly established Church, the Reverend Hamilcare Malagola, born of legitimate, Catholic, and honorable parents in Mutinae, and having reached the age of thirty-six years. Among the students of the Pontifical Academy of noble clergy in Rome, he was enrolled, and there he received the order of the priesthood, and shortly thereafter, the doctoral degree in both law. He diligently applied himself to ecclesiastical duties, especially in preaching the Word of God. In Imola, he served as a Lecturer in dogmatic theology and canon law in the Seminary, and he performed the duties of Examiner for the Synod. At the Cathedral Church of Imola, he had previously been a Canon Penitentiary, but he has now resigned. Asculum Piceni, a city built on the slope of a hill near the roots of the river Truento, extends over more than three miles, contains nearly a thousand houses, and is inhabited by approximately seventeen thousand people. The Cathedral Church, adorned with the title of Basilica, boasts the title of the Assumption of the Blessed Virgin Mary, of Saint Emygdius, the first Bishop of the same city, a Martyr, and its principal Patron, and it is immediately subject to the Apostolic Holy See. Its Chapter includes one Archdeacon, twelve Canons with a theologian and a penitentiary, twelve Beneficiaries-Mansionaries, and other priests and clerics who dedicate themselves to the work of God. The Chapter has the habitual care of souls, which is administered by a perpetual Vicar assisted by another priest in the Cathedral. In addition, there are eleven parish churches with baptismal fonts, and five chapels, as well as nine monasteries for men and six for women, a home for the elderly, an orphanage, several lay sodalities, and other pious institutions, a hospital, two charitable foundations, and a seminary. The territory of the diocese extends to more than several miles, and includes one hundred and seventy-five parishes, and another fifty in the territory of Naples.

The CATHEDRAL CHURCH of Arianen, vacant due to the voluntary resignation of the Reverend Father Salvatore Maria Nisio, which was freely and spontaneously carried out in the hands of His Holiness, and which

Translated by churchlatin.ai, a product of Boyne Archives

His Holiness accepted; His Holiness promoted to the newly established Church, the Reverend Franciscus Trotta, born of legitimate, Catholic, and honorable parents in the town of Costa in the archdiocese of Salerno, and having surpassed the age of forty-four years. He received the order of the priesthood, and shortly thereafter, the degree in sacred theology.

[*Latin ed. p. 292*]

292 From the Consistorial Acts, the town of Donatus, diligently applying itself to ecclesiastical duties, especially in the preaching of the Word of God. The Pro-Synodal Examiner of the Diocese of Acerno has, for many years, held the office of Canon Theologian and Parish Priest in the Cathedral Church itself. The town of Arian, located further inland in the Neapolitan countryside, situated above a mountain, contains approximately five thousand houses within a circumference of about three miles, and is inhabited by fifteen thousand or more people. The Cathedral Church is a beautiful and newly restored building, boasting the title of the Assumption of the Blessed Virgin Mary, and it serves as a suffragan to the Archbishop of Benevento. Its Chapter comprises five dignitaries, of whom the first, after the pontifical office, is the Archdeacon, followed by twenty Canons, including a theologian and a penitentiary, eight Mansionaries, and other priests and clerics serving in the divine ministry. The Chapter has the customary care of souls, which is administered by one of the Canons elected by the Chapter itself and approved by the Bishop, within the Cathedral. In addition to the Cathedral, there are eleven parish churches in Arian, almost all of which are equipped with baptismal fonts; one of these, under the invocation of St. John, is also a Collegiate church, and there are also two monasteries for men and one for women, several lay sodalities, a charitable institution, a hospital, a mountain of piety, and a seminary. The diocese is quite extensive and encompasses fifteen towns. The CATHEDRAL CHURCH of Segna, together with the perpetual administration of the Church of Modruš, which became vacant through the voluntary resignation of the Reverend Father Wenceslaus Soie (now Bishop of Lóri in the lands of the infidels), was, with the willing consent of His Holiness, transferred into the hands of His Holiness and accepted by Him; His Holiness, in response to the nomination of His Most Sacred Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, Apostolic, appointed George Posilovic, born of legitimate, Catholic, and honorable parents, in the town of Ivanić, within the Archdiocese of Zagreb, and who had surpassed his forty-second year, to the aforementioned Church of Segna with the perpetual administration of the See of Modruš. He was ordained a priest and, having previously received a doctorate in sacred theology, served for many years as a professor of biblical studies and canon law in the archdiocesan seminary, and also served as Prefect of Studies there; furthermore, he

Translated by churchlatin.ai, a product of Boyne Archives

taught general hermeneutics at the Royal University of Zagreb.

[*Latin ed. p. 293*]

From the Acts of the Consistory 293, and from interpretations of the sacred books of the new covenant, a Professor was elected, and appointed Pro-Dean for the theological faculty. He was also added among the prosynodal examiners, and named Assessor to the Consistorial Treasury and to the Metropolitan Consistory. Segna, a city in Croatia, situated on the coast of the Adriatic Sea, contains over five hundred houses, and is inhabited by more than a thousand Catholic inhabitants, under the temporary dominion of the aforementioned Most Serene Emperor and King. The Cathedral Church, dedicated to the Blessed Virgin Mary, assumed into Heaven, bears this glorious title, and is a suffragan of the Archbishop of Zagreb. Its Chapter consists of four dignitaries, of whom the first, after the pontifical, is the Major Prefect, also Archdeacon, and there are two Canons without theological or penitential duties, and two Prebends, who serve as Coadjutors in the care of souls, to whom are added students from the seminary for divine service. The ancient Cathedral of Modrusia, which was destroyed by the Turks, and its Chapter, consisting of nine priests, divided into three colleges, is located in Novi, in Bribir, and in Buccari. Furthermore, in Novi there are the dignities of Major Prefect, Custodian, and Archdeacon; in Buccari, a Lector, Archdeacon of Bucearas, and a Canon; and in Bribir, a Cantor and two Canons. One of the Canons, assisted by two Coadjutors, exercises the care of souls in the Cathedral of Segna. In Novi, Bribir, and Buccari, the care of souls is exercised by the respective parish priests, assisted by their Coadjutors, except for Buccari, which has two. There is no other parish church in Segna, nor any monastery, nor any house of piety, but there are two lay sodalities, a hospital, and a seminary.

THE CATHEDRAL CHURCH OF MIMATE. Vacant, it was transferred by the Most Reverend Father Joseph Frederick Saivet to the Cathedral See of Elne. The Most Holy [Pope] promoted to the aforementioned church the Reverend Julian Costes, born of legitimate, Catholic, and honest parents in the village now called Savignac, in the Diocese of Ruthenia, and constituted in the seventy-sixth year of his age. The General Vicar for spiritual matters for that city and diocese has, until now, renounced his office. Mimate, or Mimate, is a city and the capital of the province of Lozère, surrounded by mountains and situated in a plain. It enjoys a healthy air.

[*Latin ed. p. 294*]

From the Sacred Congregation, Council 294 contains houses and is inhabited by approximately nine thousand inhabitants, under temporary French dominion. The Cathedral Church of the Blessed Virgin Mary and of Saint Privatus, the Bishop of Mende, boasts this title, and is sufficiently large and fitting, exhibiting a mixed structure, and serves as a suffragan to

Translated by churchlatin.ai, a product of Boyne Archives

the Archbishop of Albi. Its Chapter numbers nine titular Canons, among whom are a theologian and a penitentiary, to whom are added other priests and choir boys, who serve on feast days with the students of the larger seminary. The care of souls in the Cathedral is exercised by a Canon-Archpriest, assisted by several vicars, where the relics of several saints are present, especially those of Saint Privatus and the Saints Gervasius and Protasus, the patrons of the diocese, which are properly preserved. Besides the Cathedral, there is no other parish or collegiate church in the city of Mende, nor a house of piety, but two religious houses for men and four for women, a hospital, and a double seminary. The extent of the diocese encompasses the entire province of Lozère and includes several other places. 1 FROM THE DECREES CONCERNING PAROCHIAL MATTERS. On December 11, 1875. This parish church, or parish, was in the town of C., and, at the request of the commune (that is, the university and the local people), and with the consent of the parish priest, was erected into a collegiate church with the permission of the Ordinary, by an instrument dated May 9, 1501, and by a Bull of Alexander VI. To the parish priest, the title and dignity of Archpriest were conferred, and six Canons were appointed: and thus the first Chapter was established. In the following fascicle, VII, we will give the remaining nominations of Bishops; which took place on the aforementioned day.

[*Latin ed. p. 295*]

Regarding parochial rights, it is stated that the Church's endowment was augmented by the right of patronage granted to the Canons, while the Archpresbyterate retained a passive right. Concerning the chapter's patrimony, it was established that it would consist of the sum assigned by the community for the purpose of providing for the needs of the parish, as well as the Church's goods, the tithes due from the people, and the fourth part of the expenses incurred for the funerals of the parishioners. The present case is properly addressed by those matters concerning the care, governance, and administration, as established in the instrument and in the Apostolic Letters, which state as follows: "After the death of the aforementioned Lord Andrew (this Andrew was then the parish priest), all care, governance, and administration of said Church, and of all the honors and temporal matters of the same or of said Chapter, shall pertain to the Archpresbyter, the Canons, and the aforementioned Chapter." Furthermore, the aforementioned Vicar General desired that Lord Andrew and whoever, from time to time, would be the Archpresbyter of said Church, should have superiority, precedence, power, and jurisdiction over the Canons and their persons, in the same manner as the Principal Dignitaries have in collegiate churches of the aforementioned Diocese, and that they should exercise the same power, by right and custom. All of these things were expressed in almost the same words, and were confirmed in the Bull of Alexander VI. How matters pro-

Translated by churchlatin.ai, a product of Boyne Archives

ceeded in this Chapter from the beginning is scarcely known, except from the visitation of the year 1583. At that time, the Ordinary reported that "The care of souls pertaining to said Church is said to pertain to the aforementioned Lord Archpresbyter, the Canons, and the aforementioned Chapter, who all unanimously agreed to appoint a Sacristan, who alone exercises the care of said collegiate Church, although with the work and assistance of one of the Canons at a time. The Canons do not reside in the canonry, because it does not have one, but only a certain large house for habitation."

[*Latin ed. p. 296*]

296 From the Sacred Congregation: "Regarding the consultation of the Archpriest: if he does not reside there, he is compelled and obligated to establish a continuous and personal residence therein." In the year 1606, there were nine Canons in that Collegiate Church: six of the first rank, three of the second rank. At that time, the capitular statutes were completed, and in constitution VI concerning the weekly schedule, it was stipulated: "They decreed that the Archpriest and the Canons are to be obligated to establish a weekly schedule among themselves, according to the form of our table, beginning with the Archpriest and extending to the last Canon, inclusive." And in constitution XIV concerning the Sacristans: "Furthermore, they decreed that the Archpriest and the Canons, at the expense of the Chapter, are to be obligated to choose and maintain two Sacristans... to whom the care of the souls of the parishioners of said parish, both within and outside the walls, who are subject to and belong to this Collegiate Church, shall pertain. But it is permitted that, for the administration of the sacred rites, they never both depart, unless with the consent of the Archpriest and the weekly schedule. But if the Archpriest and the Canons are not in agreement, at least in the majority, in choosing these, they decreed that, after two warnings, even with a day's interval between them, if six days have elapsed, the Archpriest may then, without the consent of the Canons, choose Sacristans for one year, with salary and compensation to be drawn from the Chapter's mass, and such a choice shall be valid and shall hold as if it had been made by all the Canons canonically, as has been observed in times past, and this is openly stated in the ancient capitular constitutions of this Church." For the understanding of the matter, the following cannot be omitted, which are read in Constitution XVII concerning testimonials for the attendance of clerics at sacred services: "They decreed that in the future, the faith of such testimonials shall be established by the Archpriest with the weekly schedule for the time being." Nor can those things be omitted which are contained in Constitution...

[*Latin ed. p. 297*]

Regarding parochial rights, in the nineteenth year [of the reign], concerning the administration of the Paschal Sacraments, the Archpriest and

Translated by churchlatin.ai, a product of Boyne Archives

Canons decreed that no license should ever be granted to any of the parishioners to receive Holy Communion at that time in other churches. Furthermore, what is written in Constitution XXII concerning the church house: "Moreover, the Archpriest, according to the decree of the Apostolic Visitator, is obligated to reside, live, and remain in the house of the same church, and to always lodge there, and also to be present in all matters pertaining to that church, and to diligently oversee the care of souls, and to offer himself as a suitable intercessor and helper in all the needs of the church and the people, as befits a mediator." From the year 1642 to the year 1765, in bulls issued in favor of the Archpriests, the following formula was constantly added: "And to him also pertains a jurisdictional care over the souls, concerning which there is some dispute; the present state of which we wish to remain undecided for the time being." Then, on September 16th of the year 1787, the Ordinary, acting in accordance with a law enacted by the civil authority, ordered that in all cathedral churches in which the Ordinary holds the first rank (and also enjoys parochial rights, and has care of the spiritual welfare of the people), the Canons should assist the Ordinary, and be dependent on the Ordinary, in serving the people and in all parochial functions. It is evident that the Archpriest possessed the right to exercise parochial jurisdiction from the acts of the Episcopal Visitations of November 19, 1804, and August 9, 1828, as well as from the edicts of the concourse published on August 18, 1851. However, in recent times, the Canons, in a lawsuit before the Sacred Congregation of Councils, claimed to be pastors as well as the Archpriest, and raised doubts concerning the exercise of the care of souls, concerning the administration of parochial affairs, and finally concerning the appointment and jurisdiction of the chaplains. The information provided to the Ordinary favored the Archpriest, and...

[*Latin ed. p. 298*]

298 From the decrees of the Holy Council, specifically concerning the matter, because the plurality of parish priests often generates confusion and is detrimental to the good of souls. This matter has been proposed on several occasions. First, on February 27, 1875, in the Congregation, where a written report was presented, along with supporting evidence, and a delay was granted; then, on September 4th, when the Canons of Massa petitioned, a new delay was granted through a response issued after deliberation; finally, on December 11th, when a decision was reached. The matters discussed in these three proposals will be summarized in our synoptic discussion.

ARGUMENTS OF THE CANONS OF MASSA.

Beginning with the words of the Alexandrian Bull and Indult, they

Translated by churchlatin.ai, a product of Boyne Archives

demonstrated that all matters pertaining to the Archpriest and the Canons were common, including Church property and revenues, as well as the care, governance, and administration. Regarding the first point, it was stated that the common mass freely reverted to and pertained to the Archpriest of the said Church and to each of the aforementioned Canons, "while, on the other hand," all care, governance, and administration, both of the said Church in spiritual matters and of the souls of its parishioners, entirely belonged to and remained with the said Archpriest, the Canons, and the Chapter. It was further stated that the authority of the Archpriest related only to the Canons of Massa, that is, to the superiority, preeminence, and dignity that they hold and have always held, as principal dignitaries in collegiate churches of the same Diocese, by right and custom. The burden of common care was also derived from the mandate of the Apostolic Visitor of the year 1583, who, among other things, ordered that the Archpriest and the Canons should be assembled capitularly at least twice a month, so that all matters pertaining to the care of souls should always be discussed among them.

[*Latin ed. p. 299*]

Regarding the parochial rights, 299 in number, which, as they themselves have learned, are incumbent upon the Archpriest, the Canons, and the Chapter by virtue of their office, and also by the Capitular Statutes, Constitution IX, which bears the title concerning Sacristans, in which it is stated: "Furthermore, they decreed that the Archpriest and the Canons, at the expense of the Chapter, shall be obliged to choose and maintain two sacristans, priests endowed with virtue, morals, and doctrine, as decreed by the Apostolic Visitor, to whom the care of the souls of the churches and of the pastors of this parish, both within and outside the city walls, who are subject to and incorporated into this Collegiate Church, shall especially pertain and belong." Nothing singular is introduced for the Archpriest, nor are the words of the Visitor to be understood concerning residence, nor the Constitution XXII concerning the church house, which refers to the mandate of the Visitor. The Visitor stated: "The Canons do not reside in the canonry, because the canonry does not exist; but only a certain large house for the residence of the Archpriest, and with these words, he indicated that the burden of residence equally affects all." The Archpriest was immediately and directly charged with residence, because for him, a certain large house already existed. For the Canons, there was no canonry. Therefore, the burden of residence, which the Archpriest emphasizes, does not invalidate the communion of rights. With the established communion, there is now a solidary care to be held among the Canons and the Archpriest, who, in order to exercise it, choose sacristans each year; and nothing remains that does not equally pertain to the Canons as well as to the Archpriest. The Canons are to be considered as individual pastors; the Archpriest, by

Translated by churchlatin.ai, a product of Boyne Archives

reason of his dignity, remains first among equals. Neither 1° is this exercise of solidary care disapproved by the Council of Trent, nor 2° does this solidary right invalidate the legitimately established rights. Firstly, certain distinctions are to be found in the law. Parishes exist which have certain boundaries, *fines*, within which the pastors do not...

[*Latin ed. p. 300*]

From the Sacred Congregation of the Council, it is stated that those who possess a proper people to govern cannot have parishes in plural number; and in these cases, a plurality of pastors is not permissible. There are also cases in which several pastors are found, but among them, if one is designated as rector, he is properly considered the parish priest, while the others are to be considered as assistants, as in the case of Parochial Rights of July 24, 1875. But if no distinction is found in the foundation, the Sacred Congregation has often sanctioned the plurality of pastors, as in Rome on August 29, 1744, and in the Parochial Rights of Ripana on November 25, 1762. A more benign interpretation should be adopted, and the foundation should be observed strictly, if jurisdiction has been conferred upon several natural persons who constitute a single legal person, such as, for example, a group of benefactors or a Chapter: because the common care of souls is the condition, and from it no plurality arises in law; but the jurisdiction pertains to all, as Lotter demonstrates in *De re beneficiorum*, book 1, question 20, and the Sacred Rota in decision 225, paragraph 19, volume 1, records number 2 and following. Therefore, in the decrees of chapter 7, session 7, chapter 16, session 25, the reason for this is related in Volume IX, page 121.

It is preferable to quote the words of Lotter and this decision of the Sacred Rota, so that a comparison can be made with the opinions of the authors and the Sacred Rota that have been presented in favor of the Archpriest. Thus, LOTTER, *De re beneficiorum*, book 1, question 20, numbers 116 and following (therein), states: "Nothing prevents the right of the parish from belonging to each of them in solidum, as an example of jurisdiction, which, although it admits of division in terms of use and administration, is nevertheless considered to belong to each individually, because the jurisdiction itself is individual, as an example of servitudes and other individual rights, as the opinion of Innocent taught Bart. Soc. Cato, etc. As for the other, which concerns persons, it should be noted that it does not matter whether those persons are truly one in a natural or civil sense, such as a university; and therefore, a Chapter, if it has this care, as often happens, wherever it does not have a prelate, is perfectly capable of this right, as the Ordinary agrees: for it represents a single, fictitious person, and therefore it is best to entrust it with this care, and to enter into this kind of spiritual marriage between it and the Church; for in this case, the plurality of persons is not considered, except for the purpose of constituting

Translated by churchlatin.ai, a product of Boyne Archives

a university: and consequently, a single, fictitious person; and therefore, another is not called the bride of the Church or the pastor, but the Chapter and the canons in general," and in number 142, he adds: "But in the other case (he) expressly denies..."

[*Latin ed. p. 301*]

Concerning parochial rights, chapter 301, section 13, session 24 concerning reform, there is nothing that is contrary to canon law; indeed, the aforementioned words confirm the plurality in chapter 18, section 24, in which the Holy Synod decreed agreement in all benefices for the curates. And after the Council of Trent, Saint Charles Borromeo established three independent parish priests in one church, and in the town of Ceri, canons exercised their duties cumulatively with the prelate. However, this discussion concerning the decrees of Trent is futile and empty, because the establishment of the collegiate church began in the year 1501, that is, long before the Council of Trent; nor can it be argued that they can be diverted from the instrument and the Bull of Alexander VI, which contend that the plurality of parish priests should be abolished. The damages and dangers that the archpriest claims result from the plurality of parish priests do not exist in fact; there is nothing improper among the canons who, in turn, exercise their duties with the vicar. The vicar, elected for the year, can be removed if he is negligent. In this case, there is nothing that experience has shown to be harmful. Therefore, Oldradus held these multiple positions, but only exercised them, and moreover, they are perpetually entitled to them; and therefore, there is a text in this regard in chapter "Concerning much about prebends," and in chapter "It is permissible about elections," section 6, to which I cannot in any way agree. For if these individuals are perpetually entitled to the care, that is, to the collection of tithes and the performance of funerals, then the single individual to whom we perpetually suppose it belongs, namely the parish priest, has nothing remaining of the original, improper holding; but rather, the care itself, both in its essence and in its exercise, is transferred to these individuals, even though there are several of them, which contains no absurdity, but is very much in accordance with common law, according to whose rules, if a care once originated with one person, and then became divided among several, it is, in essence, with each of them, even though not in actual exercise, as all teach in chapter "Concerning prudence about delegated offices." Thus, that original unity is perpetually represented in all of them, because they act as the representative of a single parish priest. However, in decision 225, part 9, Recent, number 2 and following, it is stated: "It does not contradict the law if two or more are in essence curates, as chapter 'Concerning prebends and dignities' does not ignore that John Andrew, etc., truly and actually reside with all kinds of actual and habitual care, for which a formal, binding agreement is not necessary, but a perpetual title is sufficient, without dependence on

Translated by churchlatin.ai, a product of Boyne Archives

another parish priest; in this case, these individuals, although not bound by an agreement, nevertheless represent the parish priest, and therefore truly have the care itself in all respects."

[*Latin ed. p. 302*]

302. Having received from the Archpriest the opportunity to present arguments concerning the matter to be amended, it is inappropriate to oppose the Archpriest. Furthermore, according to the text of the Chapter statutes, all canons are to be called to the sacristy, or to be chosen as vicars to exercise their ministry; and the right of parochiality, which the canons claim as a private right to use the mass, is common to all chapter members. Indeed, this is to be understood according to the form or note of our table concerning choral service; and certainly not according to the other table, in which the parochial right is established for the care of souls in Tournus. The objections raised concerning observance are of less weight, since the Archpriest, overturning the foundation and the chapter constitutions, could only be protected by the title of legitimate prescription. On the contrary, the canons should be assisted in their observance. For the monuments presented by the Archpriest, and which, when compared with the formula used in collations from the year 1642 to the year 1765, demonstrate that the disputed matter has been in dispute for a long time, and that the cause has remained suspended for a time. From the year 1765, that formula was no longer used. Other monuments demonstrate that the Archpriest, just like the other canons, is required to pay tithes for the mass celebrated for the people. It is found that the administration of the sacraments is carried out by the vicar for the Most Reverend Chapter, and that funeral expenses and other revenues of the parish are common. All of these provide the strongest foundation for jurisdiction, since the reception of emoluments and the celebration of Mass for the people today cannot be understood without parochial jurisdiction. That secular power acted to overturn the foundation of this collegiate church is to be held in no regard. The jurisdiction of the Chapter has always been maintained in the same manner. Vicars are to be chosen by the chapter to exercise the care of the entire parish for a year; and this cannot be done by the canons without all manner of jurisdiction.

[*Latin ed. p. 303*]

Regarding the rights of the parish, according to Piton, Disput. Ecc. 104, n. 36, and Pignatell, Cons. 24, n. 1. Furthermore, the Archpriest himself confesses that, since he admits that, from the foundation, the administration of the mass is common, and since the same words are used in the founding instrument regarding the administration and regarding spiritual jurisdiction; neither can be judged differently from the other: but either both must be declared common, or both must be declared private. Indeed, it is fitting

Translated by churchlatin.ai, a product of Boyne Archives

for a sound foundation and reason that both are common; the private right of the Archpriest has nothing upon which to be founded. DEDUCTIONS OF THE ARCHPRIEST. Following the chronology of events, the Archpriest established three periods: the first from the foundation until the Visitation of the Ordinary in the year 1583; the second from the Visitation until the secular laws of the year 1787; and the third from the year 1787 to the present. Beginning with the acts of the foundation, he observed: that in the instrument, and in the Bull of Alexander VI by which the instrument was confirmed in all things, it was stated that the care, governance, and administration of the aforementioned Church, both in spiritual matters and concerning the souls of its parishioners, entirely pertain to and remain with the Archpriest, Canons, and Chapter. And with these words, the communion of jurisdiction which the Canons defend is already excluded from the very beginning of the foundation. Indeed (he argued), if everything were to be common between the Canons and the Archpriest, that conception of words would have been superfluous, namely, that the Archpriest, Canons, and Chapter are three distinct persons in the Collegiate Church: the Archpriest being singular, the others moral; the Archpriest in the first place, the others as a complement and aid to the first. Therefore, since nothing empty or inconsiderate can be found in the instrument and the Apostolic Bull, it follows that the distinction concerning the Archpriest is true and...

[*Latin ed. p. 304*]

304 From the Sacred Congregation of Councils, it has signified the real primacy: and that the Archpriest, being placed in the first and singular position, has something pertaining to him which does not pertain to the other Mass Canons. These (he continued) are confirmed not only by the fact that the Archpriest was placed in the position of the Rector, and that the dignity was announced, and that he was endowed with a double portion, but also by common law, because the Archpriest, as such, must exercise parochial jurisdiction, according to the decision of the Rota, Decr. 135, c. Celso, n. 11: "It does not impede that the care of souls pertains to the Archpriest, because this proceeds from common law," and from the Sacred Congregation of Councils, in the Cause of Ferula, concerning Parochial Rights and privileges, of April 27, 1776, in which it is written: "For the first among the priests is the Archpriest, who presides over the other priests and has care of souls, according to Text. in cap. Off. 3, cap. at the end, and the entire title concerning the Office of the Archpriest; Barbosa in Collect. DD. Lib. S. Decret, title 24, concerning the Office of the Archpriest, chapter 3, number 1, and following; Gonzal. lib. 1, Decret, title 24, concerning the Office of the Archpriest, chapter 1. But this is not to be objected to, because in the instrument and in the Bull, it is openly stated: "Moreover, he wished that the aforementioned D. Andrew, and whoever will be Archpriest of that Church at the time, should have superiority, precedence, power, and

Translated by churchlatin.ai, a product of Boyne Archives

jurisdiction over the Canons and the persons thereof, as do and should have the Principal Dignities in Collegiate Churches of the same Diocese." And it cannot be objected that this pertains to the Dignity of the Archpriest, and only relates to parochial jurisdiction: because, if the Canons are Rectors, the Archpriest who has superiority, precedence, and jurisdiction over the Canons, must preside over the Rectors, and solidary exclusion and participation in common jurisdiction are excluded. This concerns the manner of interpreting the founding act. And proceeding to the second point, he indicated: that the mandate of the Apostolic Visitor contains the fullest confirmation of this interpretation: because, although it is repeated in the *Bulla*,...

[*Latin ed. p. 305*]

Concerning parochial rights, some have asserted that care and jurisdiction pertain to the Archpriest, the Canons, and the Chapter; nevertheless, when the matter concerns residence, these things, which could not be indifferent to the Canons if they were parish priests, are imposed upon the Archpriest, and remain indifferent to the Canons. The Canons do not reside in the canonical house because it is not held by them, but only a certain large house for the residence of the Archpriest; and it is ordained that if the Archpriest does not reside therein, he himself shall be compelled and obliged to maintain continuous and personal residence therein. If the exercise of the parish were common, and the Canons were to reside in the parochial house in turn, they also would have been obliged to reside therein; but since one Archpriest is compelled to reside, it must be said that he is truly the parish priest: and the burden of residence and the exercise of parochial jurisdiction are borne with him, because the obligation of residence is imposed upon parish priests and pastors of souls, as Barbosa states in *De Officiis et Potestatibus Parochi*, part 1, chapter 8, number 1, and Fargna in *De Beneficiis*, question 10, number 283 and following. A different interpretation of visitations cannot be given from the Capitular Statutes completed in the year 1606: and especially from Constitution XXII *De Domo Ecclesiae*, in which it is stipulated: Furthermore, the Archpriest, according to the decree of the Apostolic Visitor, unless otherwise permitted by his superiors, is bound to remain, live, and reside in the house of the same Church, and to always spend the night therein, and also to be present in all matters of the aforementioned Church, and to diligently watch over the care of souls, and to offer himself as a devout and zealous intercessor in all the needs of the Church and the people, as is fitting for a mediator. This constitution, which refers to the Archpriest alone, sufficiently and abundantly demonstrates that he is truly the actual parish priest of the collegiate church. Moreover, it cannot be overlooked that whenever mention is made of the Canons or the hebdomadarius [chaplain], the Archpriest is always placed first, and it is said: "The Archpriest and the Canons," "The Arch-

Translated by churchlatin.ai, a product of Boyne Archives

priest and the hebdomadarius"; and this is inexplicable, as is stated in the Acts, volume IX, page CH. 20.

[*Latin ed. p. 306*]

306 From the Sacred Congregation, if it is admitted that [the Archpriest] is in the same condition as the Canons, then those related to him are also considered to be in the same condition concerning the care of souls. From the year 1642 to the year 1765, a constant reference to Archpriests is found in the jurisdiction, in the Apostolic Letters issued in favor of those same Archpriests: and this, in words, also implies a jurisdictional care over souls, concerning which there is some dispute, the present status of which we wish to leave undecided. It is unknown what this dispute was; but it is certain that the Archpriests possessed jurisdictional care over souls. And no evidence is lacking to demonstrate this, since acts of marriage are produced, from the year 1726 to the year 1874 inclusive, carried out between the Archpriest and the Episcopal Curia. Finally, proceeding to a third epoch, and in order to remove the aversion that the Canons used to feel towards the acts of civil authority followed by the Bishop at that time, it is noted that nothing had changed regarding the Collegiate Church C, since the secular decrees aimed to establish one person in each parish who would have parochial jurisdiction: but that unique person already existed in the Collegiate Church C, and that was the Archpriest. And indeed, it was found that the Archpriest was the one who exercised parochial jurisdiction, from the acts of Visitation which the Ordinary conducted in the years 1804 and 1828. In the year 1804, in the report of the Ordinary, it was stated that the Archpriest of C had the obligation of the care of souls: and in the report of the year 1828, it was read: "In the Illustrious Collegiate Church C, the Archpriest is the Parochial Priest, who on every day, even on Sunday, explains the Gospel to the people, celebrates the parochial Mass, and on every festive day teaches the people the Catechism. He has two Chaplains as ordinary assistants: and, if necessary, he can canonically call upon all of them, both during and outside of Mass." Finally, to assist him, edicts of a competition were issued for an Archi-

[*Latin ed. p. 307*]

Regarding the 307 parish benefices, the notification states that the Archpriestship with the care of souls is vacant. Then, the letters of appointment are presented, in which mention is made of the Archpriestship with the care of souls. In contrast, nothing is done concerning the matters which the Canons oppose, namely, concerning the hebdomadary, the Mass for the people, the collection of tithes, and the formula used by the parish priest for the Most Reverend Chapter in certain parish records used in the past century. Indeed, with regard to the hebdomadary, it is stated that the election pertains to the hebdomadary, and that from the Constitution VI,

Translated by churchlatin.ai, a product of Boyne Archives

the hebdomadaries are to be chosen by all the Canons, and from all the Canons, who, at the time of the promulgated constitutions, were no longer only six, but nine. And since the question is about the parochial care which the Canons claim for themselves in the Mass, and this does not exceed them, it is not proper to grant them assistance alone, but rather the right belongs to the entire Chapter. Indeed, the Chapter has professed that it does not wish to involve itself in parochial affairs. The celebration of the Mass for the people is related to the tithes which they collect; and when the tithes cease, the Canons no longer celebrate the Mass for the people. This Mass, which is celebrated by the Canons and the Archpriest, either by themselves or by others, is clearly different from the parochial Mass which is celebrated on Sundays at a fixed hour for the people, and which is constantly celebrated by the Archpriest. To these matters, it must be added that the Archpriest explains the catechism to the people, blesses marriages, or delegates chaplains to bless them; all of which demonstrate that these matters pertain to the care of the Archpriest, not the Canons. *Rota Decis. Recent. Part. 7 Decis. 216 N. 10 et seqq.* 1 1 The Holy Roman Rota states in the aforementioned decision: "Furthermore, that these acts can be said to be 'performed by the aforementioned priests as dependents and appointed by the same Archpriest, is evident from the data in the Summary...' Therefore, it is even more inferred that the residence of the care does not belong to the aforementioned priests as a college, and that it is exercised by them in their own name: indeed, if they were pastors, they would not require a particular approval to hear confessions, but rather an authorization from the Ordinary for their administration in this church, and by that very fact they would have the power to administer the Sacraments."

[*Latin ed. p. 308*]

From Section 308 of the Common Formula of the Holy Council, which exists in certain parochial records, the Parish Priest, concerning the Reverend Chapter, states that he confers nothing to the Canons regarding the Mass, because the word "Chapter" includes nineteen Canons, not just six Canons of the Mass: while he does not detract anything from the Archpriest, who affirms that he habitually resides in the Chapter, and contends that he must reserve the free exercise of actual care for himself. Regarding the theories of law, it is not unknown that the plurality of priests does not oppose Canon Law. Alexander IV wrote to the Bishop of Anagni: "that one Church should have one priest, and this is also found in chapter 2 and in the chapters in which, question 1: just as in each Church there should be one priest, so also the wife or spouse of that priest cannot be divided among many." He also cited the opinion of Cardinal De Luca in *Miscellanea Ecclesiastica*, book 1, chapter 117, and the responses of the Sacred Congregation in the case of Senogallien, in *Iura Parochialis et praeminentiarum*, November 17, 1753, and in another recent document, *Iura Paro1 2*: "as the Archpriest has,

Translated by churchlatin.ai, a product of Boyne Archives

without special approval and license, along with a careful disposition of common law. To which is added that only the Archpriest distributes and collects, during the Paschal season, printed bulletins with his name, contracts marriages, and records the names of the baptized and the deceased, all of which prove that it does not pertain to him to have care of souls." The Most Reverend Cardinal DE LUCA, in *Miscellanea Ecclesiastica*, book 1, chapter 117, states: "Also, according to the prescription of the Council of Trent and the Apostolic Constitutions, and according to the decrees of several Sacred Congregations, where the care of the entire people or of some part thereof, by reason of union or ancient custom, is entrusted to the Chapter of a Cathedral or Collegiate Church, or to another community of regular or secular clergy, it is not considered praiseworthy that this care should exist among all the canons or clergy, and be exercised promiscuously." The case of Senogallien, in *Iura Parochialium et praeminentiarum*, August 11, 1753, is reported in the Treasury of the Holy Council: "In the year 1673, the Supreme Pontiff Clement X erected the parochial Church of Terra Sancti Viti into a Collegiate Church, establishing within it the dignity of Archpriest, six canonries, and two chaplains, and for the dowry, he established for all and each, the rights, fruits, revenues, emoluments, and goods of the ancient parochial church, all of which he united with authority Apostolic, and applied to the Chapter, having granted the Archpriest the care of souls. He also granted the Chapter..."

[*Latin ed. p. 309*]

Regarding parochial rights, 309 parishes, on June 24, 1875, maintained that these rights could not be applied in the opposite case – see page 291, which demonstrates that the habitual care resides with the moral body in the Chapters, while the actual exercise of that care and its administration are independent of the Archpriest. This is necessary in the case so that it is noted what jurisdiction belongs to the Chaplains, and that confusion and, especially, doubts in marriages may be avoided. Regarding the administration of chapter and parochial affairs, it was conceded that these should be discussed with the Chapter, with the ultimate authority reserved to the superior. However, concerning the jurisdiction of the Chaplains or Vicars, he insisted strongly: given that the Archpriest himself exercises the actual care, he also must be the one who communicates jurisdiction to the Chaplains as appropriate, and who ensures that they, dependent on him, respect the rights concerning the preservation of the Church, the stipends of the Chaplains, and the upkeep, administration, and care of the parish. In the following year, 1674, under the authority of the Bishop, Constitutions were established which the Archpriest and Canons were to observe, and in these, according to the Clementine Constitution, all matters pertaining to the ancient parochial church were made common between the Canons and the Archpriest, whether concerning honors, burdens, or emoluments,

Translated by churchlatin.ai, a product of Boyne Archives

or other rights in general. Thus, all these matters were also declared common in the agreement that was initiated after a long dispute between the Archpriest and the Canons, in the year 1703: and because both burdens and revenues and emoluments pertained to the Chapter, it was defined in the year 1690 that neither the Archpriest nor the Chaplains were permitted to retain anything for themselves from the uncertain revenues, to the detriment of the Canons. Therefore, according to the disposition, whether of the Clementine Bull, or of the Chapter Constitutions, or of the agreement initiated between the Archpriest and the Canons, it has been maintained until these times that there was no private right for the Archpriest; indeed, no ecclesiastical functions were performed within the area of the collegiate parochial church without the permission of the Chapter, and the members of the Most Holy Sacrament, who wished to lead sacred processions or processions, did not obtain permission from the Archpriest, but from the Chapter, and after disputes arose between these same members and the Chapter, which were settled, the right to hold processions and to chant the sacred rites was reserved to the entire Chapter, and not to the Archpriest. Likewise, if anyone wished to erect a tomb, he obtained permission not from the Archpriest alone, but from the entire Chapter, and neither were the parochial functions performed at funerals and marriages always performed by the Chapter, but also by the Canons. However, among the Can-

[*Latin ed. p. 310*]

310 From the decrees of the Council. The canons of the mass have, up to this point, demanded such things that they would rather establish true vicars removable by themselves, with all powers, than to acknowledge the true archpriest as parson, with whom these [canons] would confer about matters of the parish, and under whose direction they would exercise their ministry. Regarding these and other matters, for both sides, after much discussion, the following questions were proposed:

I. Whether the archpriest and the six canons of the mass should exercise jurisdiction and the care of souls in an equal manner, or rather, whether these things pertain exclusively to the archpriest alone in this case.

II. Whether, without the vote of the canons of the mass, the archpriest can administer the affairs of the parish in this case.

"Recently, the tranquility and unity of the canons and the archpriest were disturbed by a request made by the Conventual Fathers for the faculty of leading a procession in honor of Saint Anthony, which had never been done before; for the Bishop granted it, because he found nothing contrary to it, and he spoke with the parson. The Fathers requested and obtained permission from the Chapter. The archpriest took this badly and complained about this matter to the Most Eminent Fathers. From these complaints, new points of contention arose, which are all contained in 13 questions. The questions were:

Translated by churchlatin.ai, a product of Boyne Archives

I. Whether the habitual care of the Collegiate Church of Saint Peter of Mount Saint Vith resides with the Chapter, or rather, whether it resides totally and privatively, together with the actual care, with the archpriest in this case. And to the extent that it is affirmative regarding the first part, and negative regarding the second.

II. Whether the same archpriest can, independently of the Chapter, exercise the care of souls, and dispose of everything pertaining to it in this case.

III. Whether, without the consent and license of the archpriest, but with the form of established conventions, the canons can baptize, assist at marriages, and exercise other parochial duties in this case. (We omit the other questions, since they are foreign to our case.)

After two delays in the Congregation, on November 17, 1753, answers were given:

To I. Affirmative regarding the first part, negative regarding the second.

To II. Affirmative.

To III. The custom should be observed.

[*Latin ed. p. 311*]

I. Concerning Parochial Rights. Whether Chaplains, in the matter of elections, possess spiritual jurisdiction in case 311 concerning a simple nomination, and the administration of justice. And to what extent. IV. Whether and from whom they receive this in such a case.

RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter, responded on December 11, 1875, as follows:

Regarding I. The habitual care [of the parish] belongs to the Chapter and the six Canons, depending on the exercise thereof from the Archpriest, according to the form determined by the Bishop, after examining the institution, the chapter statutes, and legitimate custom.

Regarding II. Concerning temporal goods, revenues, and emoluments, the administration belongs to the Chapter; regarding the rest, provision is made in the first [section].

Regarding III. and IV. Chaplains or Sacristans require express Episcopal approval, and regarding the rest, provision is made in the first [section].

FROM WHICH WE GATHER:

I. In matters concerning the extension and exercise of parochial rights, the norms for judging are to be drawn from the foundation, the constitutions, and legitimate custom.

II. Nothing prevents the habitual care from remaining with the Chapter in Cathedral or Collegiate churches, while the actual care is exercised independently of the dignity of the Chapter.

Translated by churchlatin.ai, a product of Boyne Archives

III. This arrangement has been preferred by the Sacred Congregation of the Council after the Council of Trent, whenever the particular laws and customs of the foundation do not clearly oppose it, in order to remove confusion and doubts, especially concerning the validity of marriages.

IV. In such a case, the hierarchical order must be observed, and—

[*Latin ed. p. 312*]

312 From the Sacred Congregation: To avoid the danger of disputes or confusion, the statutes of the six Canons depend on the Archpriest. V. It was most wise to refer the manner of living among the Canons and the Archpriest to the counsel of the Bishop; for it is his duty to know the needs of the flock entrusted to him, and to propose means by which those needs may be met. VI. For the Chaplains or Sacristans who are to exercise a parochial ministry, a simple nomination by the Chapter is not sufficient; but the express approval of the Bishop is necessary for them.

CONCERNING ALMS OF THE SECOND MASS

1. Through summary petitions. On April 1, 1876. Summary of the case. The Bishop R. presented a suppliant letter to the Most Holy Prince, inquiring: "Whether a Priest, who on Sundays and feast days celebrates the Mass for the necessity of the people, and receives no alms, nor, indeed, does he receive any special emolument from the second Mass, can apply the fruit of this Mass to a person who has given a certain sum of money to that celebration, with this condition attached."

It should be noted that unless the benefactor has given the aforementioned sum, the obligation rests with the Fabric [church] to pay that same sum to the Priest, as compensation for his time and trouble, so that he receives no less in the latter case than in the former. For in the former case, the benefit accrues only to the Fabric, and not to the Priest, who, however, celebrates the Mass as if for some pious foundation.

1. *Recole*, Vol. VI, page 526.

[*Latin ed. p. 313*]

Concerning alms, in the 313th Mass: Having received these requests, it was written: "To the same Bishop, in order to more precisely determine by what means a certain sum from a pious person is given to the Fabric [institution], and how the priest celebrating Mass should receive the Mass, applying it for the aforementioned pious person, no less than if he did not apply the Mass for the same person." To this, the Bishop responded: "The aforementioned pious person has given a certain sum to the Fabric, under the condition that the fruits of the second Mass be applied to her. Secondly, that the priest celebrating Mass should receive the Mass, applying it for the aforementioned pious person, no less than if he did not apply

Translated by churchlatin.ai, a product of Boyne Archives

the Mass for the same person, is established by the custom prevailing in our regions, whereby a Fabric which gives a sum of 1,500 or 2,000 francs to each priest undertakes the obligation of two celebrations on feast days, for the necessity of the parishes, leaving to the celebrant the faculty of applying the fruit of the second Mass for his own intention. In the present case, the sum of money given by the aforementioned pious person has served to enable the Fabric to give the customary sum to the priest, without the Fabric being obliged to make these expenses from its own funds. Therefore, the priest receives no more than in other cases of two celebrations; this alone distinguishes the proposed case from the others, in that in these cases the priest is free to apply the fruit of the second Mass, whereas in the present case, the fruit of the Mass must be applied for the person who gave the sum of money to the Fabric, from which the priest is supported for the obligation imposed upon him on "feast days"; in neither case is a stipend for the celebrated Mass received by the priest."

FROM WHAT IS REQUESTED, OBJECTIONS ARE RAISED. Furthermore, it is the law that it is entirely forbidden to a parish priest, or any other priest celebrating Mass, to receive an alms or stipend for the celebration and application of the second Mass, as is clear from the Constitution of Benedict XIV.

[*Latin ed. p. 314*]

314 From the Sacred Congregation of Rites, based on decrees and the constant discipline of this Sacred Congregation. Indeed, there are many decisions concerning this matter, but the following are particularly noteworthy: I. *Vintimilien*, December 19, 1835, in which the question was considered of granting a parish priest, who was in charge of a single parish, the faculty of saying a second Mass, and the doubt was: Whether the permission for the requested indulgence should be sought from the Most Holy Synod in this case. The response was: "Affirmatively, for a period of ten years, provided that the parish priest does not receive alms for the second Mass; 2° *Cameracensi*, Mass for the People, September 25, 1858, in which the prohibition of receiving alms for the application of the second Mass is repeatedly emphasized. Indeed, this prohibition is so strict that it excludes anyone from claiming to receive alms for the second Mass, as is evident from the response given by the Cardinal Prefect of the Congregation to the Cardinal Bishop of Cameracensi, which reads as follows: "It is the duty of the Ordinaries to be strictly vigilant, so that permission is not granted generally, as a privilege to any priest, or for particular cases, and that it is not granted without due examination for reasons of necessity; furthermore, they must admonish those parish priests to whom the faculty of saying a second Mass on the same day has been granted, so that they do not receive alms or any compensation for it from anyone, under any pretext, according to the decrees already issued by the Sacred Congregation of Rites, but that

Translated by churchlatin.ai, a product of Boyne Archives

they apply it freely for the benefit of the people entrusted to them." Based on the above, it seems that the faculty of applying the second Mass for that pious benefactor, who contributed a sum of money to the Church fabric under the condition that the fruits of the second Mass be applied to him, cannot be granted, since the priest would, directly or indirectly, receive alms for the application of the second Mass. Indeed, in this case, he would receive that sum to the extent that he applied the Mass according to the intention of the benefactor, who had given that sum of money under that condition. However, from what has been said, it is prohibited to apply the second Mass in this manner, because...

[*Latin ed. p. 315*]

Concerning the alms offering of the second Mass, 315, it should be noted that, in this case, it would seem not to be permissible to apply the Mass for the benefit of the benefactor. Furthermore, the parish priest, or any other priest having charge of souls, cannot receive a special alms from a pious member of a sodality or from the prefect of the church fabric for a Mass celebrated or sung on Sundays or on holy days of obligation, and this is permissible sometimes without a special application, and sometimes with a special application for a specific obligation, as is evident from the case of Brixia, March 3, 1855, through the Summaria precum, where, after the Bishop had asked the Sacred Congregation whether this practice, established by immemorial custom, could be tolerated, at least for holy days, on which an alms is offered without a specific obligation of application, the Sacred Congregation judged it necessary to write back, stating that the custom, according to what has been explained, is to be condemned, and that the Constitution of Benedict XIV, Cum semper, is to be observed. Moreover, if in the aforementioned case the Sacred Congregation rejected the custom of giving the parish priest a special alms, although sometimes there was no specific obligation of application, then, a fortiori, in our case, the request to apply the repeated Mass for the benefit of the benefactor should be rejected, since not only is there here an obligation of specific application for the benefactor, but indeed the celebrant receives the alms because of the application of the Mass, since the benefactor has placed the application of said Mass as a condition for the alms given to the church fabric.

FROM WHAT SEEMS TO FAVOR THE PETITION. But on the other hand, there are reasons why such an alms offering might be permitted; because it does not seem to be for the purpose of receiving something back from the celebration or application of the second Mass, but rather as a remuneration for a special labor and industry.

[*Latin ed. p. 316*]

316. From the Sacred Congregation of Rites, a declaration concerning

Translated by churchlatin.ai, a product of Boyne Archives

monasteries, issued in June 1846, which was also reported in Camerano, can be presented as evidence. The Bishop there proposed two questions to the Sacred Congregation of Rites, of which the first, having been omitted because it is not relevant to the matter, the second was as follows: "Frequently in this diocese, due to the extent of the parishes, it happens that chapels are found within them, where, on Sundays and feast days, or from the foundation, or from a contract between the parish priest and the parishioners, Mass must be celebrated for the benefit of the inhabitants who are distant from the parish church, especially for the necessity or convenience of the elderly and the infirm. There is a custom that, if nothing has been stipulated regarding the application of the sacred offering to a specific intention, in such cases the celebrant applies it for another stipend or for his own intention. The question is whether this custom, whose legality is doubted, should be permitted in the future, and whether anything should be restored from those who have used it in good faith?" The Sacred Congregation of Rites responded to this second question: "It can be permitted." Similarly, the Congregation of the Council in Treviri, in the report on the Eleemosynae Missarum of March 33, 1861, addressed the following second doubt: "Whether parish priests, who, due to circumstances, celebrate Mass twice on Sundays and feast days, either in the parish church or in a separate chapel, while also imparting Christian doctrine, can receive a certain annual salary from the parishioners for their particular labor and industry." The Sacred Congregation responded: "It can be permitted, at the prudent discretion of the Bishop, some remuneration in consideration of the labor and inconvenience, excluding any alms for the application of Masses." Therefore, the Sacred Congregation of Rites and the Council have granted the faculty to receive something for a second Mass due to labor and inconvenience; hence, no valid reason appears to prevent this from being permitted in our case. For...

[*Latin ed. p. 317*]

Concerning the alms offering for the second Mass, 317. The priest receiving the offering for the benefactor does not receive any sum or compensation other than that which he would have received from the Church Fabric, as is evident from what has been said, but the Church Fabric gave that sum of money to the priest in consideration of his labor and inconvenience, because the Bishop reported that the Church Fabric, according to the existing custom, gave each priest the sum of 150 or 200 Francs for the burden of celebrating two Masses, which he undertakes on feast days, and as a sort of compensation for his labor and trouble. Therefore, the priest receiving the offering for the benefactor receives that sum in consideration of his labor and inconvenience. Let no one say that it was the intention of the benefactor to give that sum for the offering of the Mass. For by leaving that sum, he did nothing other than to assume the burden of the Church Fabric, and for this

Translated by churchlatin.ai, a product of Boyne Archives

benefit, he desired a spiritual good from the fruit of the second Mass. The reason for which this Holy Congregation has consistently forbidden the acceptance of alms for the second Mass seems to be this: that there should be no profit derived from the repetition of the Mass. But this profit can in no way be present in our case, because the priest receiving the offering for the benefactor receives the same compensation that he would have received if he had not offered it for the benefactor. Therefore, considering the special circumstances of the case, and since the alms offering does not seem to be received for the offering of the second Mass, it would seem that it could be permitted to offer the Mass for the benefactor. Nevertheless, the matter has been submitted to the wise judgment and piety of the Most Reverend Fathers.

RESOLUTION. The Sacred Congregation of Councils, on the 1st of April, 1876, having considered the matter, decided: "It is not permitted."

THEREFORE, IT IS UNDERSTOOD: I. The practice of the Sacred Congregation remains firm; namely, that under no title or pretext, or in any addition, alms for the second Mass may in any way be accepted.

[*Latin ed. p. 318*]

From S. C. Concilii 318 I I. A reasonable cause was given by the Church for such a prohibition, namely, the abuse that had begun by several priests, infected with the stain of sordid avarice, concerning the alms of the Masses. I I I. Therefore, the Roman Pontiffs also forbade the repetition of the Mass on the same day, by a strict law, lest an opportunity be given to foster the cupidity of some priests; who would offer more sacrifices solely for the purpose of collecting more alms. IV. In the case of a priest who directly or indirectly received an alms for a second Mass, if the same priest had been granted by the S. C. C. the faculty of applying the second Mass for that pious benefactor, who had given a large sum of money to the Church Fabric, under the condition that the fruits of the Sacrifice of the Mass be applied to him. DISPENSATION OF MARRIAGE. On February 5th, April 1st, May 13th, 1876. Summary of the case. In the year 1870, a marriage was lawfully, but with ill omen, begun between Frederick F. and Mary P. from the Diocese of R. in Germany. For on the very first night, the girl discovered that the man was afflicted with a very grave and loathsome disease, so that, struck with horror, she neither wished nor was able.

The Holy Roman Church, whose supreme end, and in all things, is the good of souls, in the early times allowed priests, who were fewer than the number of the faithful, to offer more Masses on the same day. But it is known that this custom continued even in a time when the number of priests was no longer so small. Nevertheless, a strict law was issued that this should no longer be done, because the sordid avarice of some priests was seen to dishonor what was otherwise lawful and holy. For some, indeed, sell Masses in a certain way and make a most disgraceful profit

Translated by churchlatin.ai, a product of Boyne Archives

from them. Therefore, the illustrious and ancient Author said to priests who were enriching themselves greatly from Masses: What is it to celebrate the solemnities of the Masses with a view to temporal advantage, except as Judas sold Christ, and that is far worse, inasmuch as he has been raised up again?

[*Latin ed. p. 319*]

Dispensation of Marriage 319 leads to it. From this arise quarrels and complaints, then the prior separation, and finally, the departure of the bride from the house. Therefore, Mary, with the counsel of others, petitioned the Holy See for a dispensation regarding a marriage that had been contracted but not consummated. On January 17, 1873, the Holy See referred the matter back to the Ordinary, and the Curia of that diocese duly initiated the process. Therefore, Frederick was summoned for examination, and, after being questioned about various matters, including the consummation of the marriage, and after taking an oath, he testified that the marriage had not been consummated, neither on the first night nor afterward, although he had attempted to achieve this, by persuasion, but not by force. He also stated that from July 1870 to April 1871, he had lived with his wife, and that for two months they had slept in the same room. He further stated that for four months prior to the marriage, there had been great familiarity between himself and Mary; which diminished somewhat, and then, six months before the marriage, it returned to its former intensity, and the marriage took place. He stated that this temporary change, which originated on the part of the woman, had no other cause than the hope of marrying a certain K., who was considered wealthier; which hope was frustrated; the girl returned to her former state; but when she saw the bridegroom was poorer than she had thought, she developed a great aversion towards him. He was also asked whether he would return to his wife, to which he replied: Although I doubt that my wife's feelings towards me will change, yet, with this change having occurred, I will not resume the marital cohabitation with her. Regarding his health, he stated: The illness I suffered was an inflammation of the inguinal glands, and the cause of this was a difficult journey I undertook; now I am completely cured. The woman, subjected to examination and questioned, answered, after being sworn: The consummation of the marriage did not occur, although the husband repeatedly requested the marital duty.

[*Latin ed. p. 320*]

320 From the records of the Sacred Congregation, it appears that an attempt was made, indeed with great force, to extort a confession, but the effort proved futile. Regarding the wife's persistent refusal to fulfill her conjugal duties, she stated that the reason was a venereal disease with which her husband was afflicted. The parents of both spouses were summoned

Translated by churchlatin.ai, a product of Boyne Archives

and, under oath, testified that the marriage had not been consummated; this was confirmed by other witnesses who were questioned for that purpose. After these proceedings, the woman was subjected to an examination in a bath for a full hour, according to custom; from this examination, it was determined that she possessed almost all the signs of virginity, with the exception of the hymen. Regarding the nature and severity of Frederick's illness, three physicians were consulted; all of them testified that he was indeed suffering from a venereal disease, although they did not explicitly deny it. Other physicians were consulted at the order of the Sacred Congregation, who judged that Frederick had been completely cured of the disease that afflicted him, and that he was therefore capable of fulfilling his conjugal duties. It cannot be omitted that this woman admitted, when questioned, that she had been aware of such a disease in her husband before the marriage was celebrated, having learned it from a relative who, smiling at her before the wedding, had said: "The marriage will not take place, because Frederick is ill." The Ordinary, in submitting the records of the process, stated among other things: "The question of whether the marriage, of which we are speaking, has been consummated, must be answered in the negative, as it appears to me. Indeed, both spouses, while denying consummation, seem to testify to their own best character; furthermore, the oaths they have taken, and the letters written by the husband, to which the testimony of a seventh witness has been added... Moreover, she utterly shuns cohabitation with her husband, whom she believes to have been afflicted with a venereal disease, a persuasion that seems to be well-founded. Furthermore, she is evidently in grave danger of eternal salvation because of the weakness of the flesh, unless..."

[*Latin ed. p. 321*]

Dispensation of Marriage 321: "He may be able to contract marriage; indeed, the circumstances in which he now finds himself are such that it is highly probable that a civil marriage will be contracted, after a prior civil marriage has been legally dissolved, if it is impossible for him to contract a Christian marriage." The poverty of both spouses was considered, as was the opinion of theologians and canonists, as well as the observations of the Defender of the Faith ex officio. OPINION OF THE THEOLOGIAN. After a brief recounting of the facts, the Theologian considered it necessary to investigate whether there are reasons in this case for granting a dispensation from marriage. He also noted that in other cases, the Sacred Congregation has admitted evidence of an unconsummated marriage even without a physical examination of the woman. Furthermore, it is known from the practice of the Sacred Congregation that evidence in favor of a valid marriage is not invalidated by the fact that the husband remains in the same house for a certain period of time, as is the case in our instance, for approximately nine months. He stated that the reasons upon which the

Translated by churchlatin.ai, a product of Boyne Archives

dissolution of the aforementioned marriage is based seem to be reduced to three points: the first is Frederick's infirmity. From the procedural records, it appears that the husband suffered from some illness before the celebration of the marriage; this infirmity gave rise to the suspicion in the woman's mind that it was, in fact, a syphilitic contagion. In such a case, the husband would not be able to fulfill his marital duties. St. Thomas, 3rd part, question 65, article 2: "A husband is bound to render his due to his wife, provided that the safety of the person is preserved beforehand. The same must be said of the wife with regard to the husband; and the reason is given in these words: 'Because the natural order is that someone should first perfect himself, and then share in his perfection; and this is also the order of charity, which perfects nature.'" And St. Alphonsus de Liguori, L. 6, Tract. 6. 1 See Vol. IV of this Ephemeris, page 195. Records, Vol. IX, fascicle GII. 21.

[*Latin ed. p. 322*]

From the Decree of the Council concerning marriage, n. 950: It is certain that a spouse is not obligated to fulfill the marital debt if doing so involves a grave danger to his or her own life; indeed, it adds: It is certain that a spouse is not only not obligated, but also cannot be obligated to fulfill the marital debt if doing so involves a grave danger to his or her own safety, because no one is the master of his own life. This doctrine is not weakened by the authority of the Supreme Pontiff Alexander II, chapter 2, concerning leprosy in marriage. If a man or woman should become leprous, and the sick person demands the marital debt from the healthy person, according to the general precept of the Apostle, it must be fulfilled; as the theologians commonly respond, as Billuart states in *Tractatus de Matrimonio*, Dissertation 4, section 4, that the Pope spoke based on the presumption that there is no imminent danger of infection. And as Ligorius states in the aforementioned passage: The theologians commonly limit this by stating: 1.° If, from such a union, there is a danger of infection that is notably harmful, according to the judgment of doctors. 2.° If the healthy spouse has such horror at the thought of having intercourse with a leper, that it is morally impossible; for no obligation exists where something is impossible. Therefore, since the wife does not wish to, and is not obligated to, fulfill the marital debt, there is no hope that the discord between them will ever end, and that this discord will be the origin of their separation; therefore, another reason exists (namely, a very serious discord between the spouses) by which the dissolution of such a marriage can be requested. A third reason, which appears to be present, was given by the Ordinary in his information, namely, that Mary is in grave danger of eternal salvation. No one can deny that if there is any way in which the spouses could be saved from the danger of eternal damnation, it should be done. Furthermore, the theologian supports the force of the reasons we have presented with the opinion of the most learned theologians who believe that the Supreme

Translated by churchlatin.ai, a product of Boyne Archives

Pontiff can grant a dispensation from the marriage bond, even if only the aforementioned reasons exist. Sánchez, in *Lib. 2, disp. 16, n.*, indeed.

[*Latin ed. p. 323*]

Dispensationis Matrimonii 323 states: "The second cause [for granting a dispensation] is the grave fear of a great scandal that will arise, because this leads to great harm to the common good, and serious quarrels and necessities often arise from it. Thus, Félin, cons. 26, n. 19; Fortius, Cons. 154, n. 22 and 24; Menochius, dicta praesumpt. io, n. 42; and de consen. 385, n. 7, where Portio adds that this future scandal arises from the fear of fornication, and because the spouses greatly dislike each other... Hence, it is a just cause when a husband seeks to repel his wife with all his efforts, without a reasonable hope of improvement; from which, due to the disagreement of wills, perpetual discord can easily arise, because just as the agreement of two people fosters friendship, so disagreement breeds enmity and perpetual discord. Therefore, Eugenius IV granted a dispensation because of the hatred that had arisen between the spouses, as Borgasius states in *de irregular*, p. 6, title *de Sponsalibus*, n. 74. Thus, Felin, cons. 26, n. 19; Caietanus, *Opusculum*, vol. i, Tract. 28 *de Matrim*, quaest. unica; and Menochius, *d. consil.* 385, n. 7, hold this view. The third cause [the author adds in n. 5] is the development of leprosy in one of the spouses. Because marriage is ordained for mutual use of the body, for the purpose of procreation and the extinguishing of lust, and leprosy hinders this use due to the great danger of contagion, the purpose of marriage is not achieved. Thus, Borgasius, *d. num.* 74, stating that Martin V granted a dispensation because of leprosy." And Caietanus, *T. i, Opusculorum*, Tract. 18, quaest. unica, had previously asked: "Is discord that arises between spouses a reasonable cause for granting a dispensation [from marriage]?" And he responds: "I believe that it is, with the consent of the spouses." This is done both for the good of souls, so that young people do not fall into adultery, or are forced to remain separated indefinitely; and for the restoration of peace between them, by removing this bond that is the cause of discord, especially because the purpose of marriage is unity. Also, St. Alphonsus includes this among the just causes for divorce.

[*Latin ed. p. 324*]

From the decree of the Sacred Congregation concerning marriages, the imminent scandal is considered. In addition to the opinion of the Theologians in favor of the solution of the marriage, the Apostolic See added its judgment; by which it affirmed that the Supreme Pontiffs, in other cases for identical or similar reasons, have already dispensed with the marriage, especially when the consent of both spouses is present, as is evident in the present case. THE OPINION OF THE CANONIST. The Canonist declared that he had two things to investigate in order to express his opinion on

Translated by churchlatin.ai, a product of Boyne Archives

the matter: 1° namely, the state of Mary's virginity; 2° the illness of Frederick at the time of the marriage. Regarding the virginity, or the lack of consummation of the marriage, he said that it had been sufficiently proven: 1° from experiments properly and according to the canons performed; 2° from the opinion of Doctors appointed for this purpose; 3° from the totality of the depositions; 4° from Mary's honesty, proven in the records; 5° especially from her ignorance of the use of marriage and of the male body, which is deduced from the entire context of the proceedings. From all of these things, taken individually and also considered together, he declared that he had reached the certainty that the marriage was not consummated; therefore, it could be dissolved, on this ground, by the authority of the Apostolic See. Proceeding then to the matter of Frederick's illness at the time of the marriage, the Canonist said: although something may be found in the records for or against giving judgment on this matter, nevertheless, after considering everything, he said, "no doubt remains to me of the existence of a true syphilitic illness at the time of the marriage." Therefore, proceeding to the conclusion, the Canonist said: it has been proven that Mary did not consummate the marriage with Frederick; and that Frederick was suffering from a syphilitic illness when he entered into the marriage; which was a just cause for Mary's aversion from her husband, and for her continued refusal to fulfill her marital duties. What, therefore, is to be done? 1° 1 Among other things, see the Ephemerides of this year, Vol. IV, page 194.

[*Latin ed. p. 325*]

Dispensation of Marriage 325. That which was a just cause for Mary's aversion from her spouse, can it now be a just cause for dispensing with such a marriage, which is valid but not consummated? "I would hesitate for no reason to give an affirmative answer," he replied. OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE, BY OFFICE. Having added all that Mary attempted to demonstrate to prove that her marriage was only valid, the Defender of the Marriage said that all of this could easily be removed from consideration, and thus weakened, so that it would contribute nothing. For, through documents that are either undoubtedly false or are most exaggerated, it will manifestly appear that the marriage in question was perfectly consummated; or at least that there is no evidence whatsoever that excludes the presumption of law, and of right, regarding the non-consummation of the marriage. Indeed, a woman can avoid sleeping alone with a man in the same room for many nights; from which it follows that she cannot in any way prove that she did not consummate the marriage with him. And the provisions of the canons exclude her from the very threshold of judgment. For, if the case is as stated in the decree *Capitis Accipiendi*, regarding frigidity and malice, it states: "If a woman, while acting, asserts that she is not capable, unless she is convinced by the

Translated by churchlatin.ai, a product of Boyne Archives

appearance of the body or by some other undeniable means, the woman is not heard. For, since the virility of the man, and the cohabitation in the same room, create a clear and unavoidable presumption of law, and of right, that the marriage has been consummated. This presumption of law, and of right, therefore, excludes the woman from the very threshold of judgment, so that she is not heard, unless by the appearance of the body, or by some other means..."

1. A presumption is a reasonable conjecture of a doubtful matter, gathered from some other likely circumstance; some are only of law, others are of law and of right. A presumption of law is that to which the law adheres as long as the contrary is not proven; so that against this presumption, proof to the contrary is admitted. But a presumption of law and of right is that to which the law adheres so strongly that it decrees that it must be considered as true; and against it, no proof is admitted, unless there is clear evidence of the contrary; because then all presumption ceases, and yields to truth.

[*Latin ed. p. 326*]

326 From the Sacred Congregation, a doubt is presented concerning whether the marriage was consummated. Therefore, Mary could have used only two means, which are sufficient to prove that the marriage was not consummated, namely, the appearance of the body and an undoubted circumstance. It cannot be said that the confession of Mary and Frederick, or the rumor of their proximity, are undoubted circumstances; for these are obtained only when one or the other spouse suffers from the impotence of cohabitation, and not when there is no doubt about the potency: as is clear from the chapters *Laudabilem*, *Fraternitatis*, and *Litterae de frig. et malef.* But in the testimony, there is nothing else present than the confession of the spouses and the credulity of the seventh witness to prove that the marriage was not consummated; but all things do not establish the proof according to the discipline of the canons. There is no reason for Mary to have turned away from fulfilling her conjugal duty, since it is clear from the depositions of the doctors that Frederick was never infected with the syphilitic contagion, which was known to the woman before the celebration of the marriage; and that she knew that Frederick's illness was not dangerous and that he was being cured, as some doctor affirmed. Therefore, it is clear that Mary had no reason whatsoever, nor any pretense of a syphilitic disease, nor any appearance of coercion, by which she could have refused to consummate the marriage for two months, sleeping alone in the same room with only Frederick. Therefore, much more firmly remains the disposition of the Sacred Canons in the testimony, and especially the disposition in Chapter *Super eo*, which states that unless reasonable and trustworthy proofs are added, the unanimous confession of the spouses and the credulity of the seventh witness are of no avail to prove that the marriage was not consummated.

Translated by churchlatin.ai, a product of Boyne Archives

Therefore, since everything concurs in the testimony to demonstrate that the marriage was consummated,

[*Latin ed. p. 327*]

Dispensation from Matrimony 327: It is impossible to grant a dispensation from a marriage that is alleged to be valid but not consummated, because it is the opinion of those most learned in law that such a dispensation can never be granted, unless there are full and conclusive proofs of the lack of consummation, which remove all suspicion. The Sacred Congregation has repeatedly noted, and in particular in the Neapolitan case concerning Matrimony, March 31, 1770, § Contra, there: that from the mere cohabitation and sleeping together of a young man with his wife for a continuous period of five months, a violent and certain presumption of consummation follows, according to law and in law. See Cap. in letters 12, Cap. Third, concerning presumptions, Pignat., vol. i, consult, canon 148, n. 21, Rota before Falconer, concerning betrothals, decision 3, n. 13. And against this presumption, no other proofs are admitted, except those which are full and conclusive, and which remove all suspicion, as stated by Pigliateli, ibid., n. 15 and 22, Cardinal De Luca, on Matrimony, discourse 7, n. 7, Rota in decision 171, n. 5, part 9, vol. i, Recent. Furthermore, the defender of marriage stated: that the presence of the husband and his cohabitation in the same room, even if all the signs of virginity were present, which is not verified in this case, could not, in any way, have any effect, as the Sacred Congregation noted in the Neapolitan case concerning Matrimony, April 28, 1770, § Plura - there: Furthermore, it noted that the examination of the woman's body by midwives is to be considered unreliable, not only according to Canon Law, see Cap. 27, question 1, Cap. Cause 14, concerning proofs, Gloss, in Cap. Proposuisti, verb. per aspectum de probat., but also according to the constant opinion of many authors, who assert that there are no certain signs of virginity in themselves, Zacchias, quaest. med. legal, vol. i, I. 2, title 2, question i, n. 4 et seqq., Augen, epist. med., vol. 2, L. 1, cap. 5, or that the consummation of marriage can occur without any violation of the virginal enclosure.

[*Latin ed. p. 328*]

328 From the Decree of the Holy Council of Loreto, book 4, dist. 27, question 1, article 4, § Causes; Sánchez on Matrimony, disputation 21, number 2, book 2; Annaeus, book 4, treatise 1, chapter 10, page 790. Indeed, such a deceptive examination must be considered all the more in the present case, in which Catherine, a young woman of seventeen years, was joined to a man, and the examination of her body was not completed until after nine years; for during this period of time, the parts could have coalesced, adhered, and returned to their natural integrity. Augen, in the cited passage; Zacchias, in the cited passage, and question 3, number 4, Severin, Penances

Translated by churchlatin.ai, a product of Boyne Archives

concerning the signs of virginity, book 4, chapter 6. Having carefully considered these matters, the following question was proposed: Whether it can be established that there is a valid, but unconsummated, marriage, so that it may be permissible for the Most Reverend Vincent Gonfalone to enter an approved religious order with the intention of making vows in this case. The Holy Congregation of the Council responded: Negatively. From this, the advocate for the marriage inferred: that if the virility of the man is certain, and it is established by fact that the spouses slept in the same bed, then the confession of either party, the credulity of a seventh witness, and the apparent signs of virginity, have no power to obtain a dispensation concerning a marriage alleged to be valid but unconsummated. However, he should not forget that in our case, the hymen was absent; in which the Doctors of medicine consider the sign of virginity to be paramount. With these, and other things mentioned, the proposed question was to be resolved: Whether it is advisable to consult the Most Holy Father concerning a dispensation for a marriage that is valid but unconsummated in this case.

RESOLUTION. The Sacred Congregation of the Council, on February 5, 1876, after the case was discussed, decided to respond: Affirmatively. However, the benefit of a new hearing was requested by the advocate for the marriage, and was obtained. And the case was again brought before the tribunal.

CAUSES PROCEEDING.

[*Latin ed. p. 329*]

Dispensation 329 of Matrimony, April 1, 1876, concerning the question: "Whether one should adhere to or depart from the decisions in this case." On the aforementioned date, the following response was issued: "Absolutely and infallibly, one must adhere to them." Then, on May 13, 1876, the same question was again discussed under the formula of a doubt: "Whether one should adhere to, or depart from, the decisions." The response given was: "In the decisions concerning the case." THEREFORE, ONE MAY GATHER THE FOLLOWING: I. It is in no way permissible to doubt the power of the Supreme Pontiff, a power received from Christ in Saint Peter, to dissolve marriages; and furthermore, those same authors who doubt this power, nevertheless admit that the Holy See has often dispensed with such marriages. II. Indeed, if the Roman Pontiff has at times dispensed with valid marriages, to doubt his power would be like sacrilege; for it would be as if one were to reproach Christ for not having sufficiently provided for the Church. III. However, in order to obtain a dispensation concerning a valid and unconsummated marriage, there must be present causes that suggest and justify such a dissolution. IV. Among the other causes cited by the Reverend Fathers, one may include

Translated by churchlatin.ai, a product of Boyne Archives

a contagious disease with which a man or woman is afflicted, such that, according to the judgment of physicians, there is a notable risk of infection from their carnal union; or, indeed, if one of the parties so detests the union that it becomes morally impossible, for there is no obligation regarding impossible things. V. Very serious disagreements between spouses, which are likely to have no end, and a grave fear of scandal, with the danger of eternal life, are cited among the causes for dispensing with marriages that are only valid. VI. From the practice of the Holy See, it is clear that favorable proofs concerning a valid marriage are not weakened by the fact of cohabitation.

[*Latin ed. p. 330*]

330 From the Sacred Congregation of the Holy Office, concerning marriages of those who have been together for some time in the same house; and sometimes, the same proofs have been admitted without a physical examination of the woman. VII. Three causes seem to have been present in this matter, by which the present marriage could be dissolved; namely, discord between the spouses, a venereal disease of either party, and the danger of eternal life: while, according to the opinion of theologians, even one of these would suffice to obtain this dispensation. FROM the Sacred Apostolic Penitentiary. A question was proposed to the Sacred Penitentiary: Do regular prelates, after the constitution of the Apostolic See, enjoy the same privileges as before, that is, can they or cannot they absolve their subjects from papal cases simply reserved in said constitution? The Sacred Penitentiary responded on December 5, 1873: Negatively, saving those faculties which arise from particular rescripts granted for a time. FROM the Congregation of the Holy Office. The Reverend Father Philip De Angelis, of the Sacred Roman Edict, priest, Cardinal, and Bishop of Firman, proposed the following questions to the Congregation of the Holy Office. 1. To what extent do the censures of Trent still remain in force, as confirmed by the Apostolic Constitution? Which is the same as asking whether a sin in this matter, which the Apostolic Constitution...

[*Latin ed. p. 331*]

Question 331 of the Sacred Congregation, and the Council of Trent, inquire whether a person incurs a double excommunication, one specifically reserved to the Roman Pontiff by the aforementioned constitution, and the other simply reserved by the Council of Trent.

1. And therefore, do those who usurp ecclesiastical goods incur a double excommunication?

2. Do those who purchase ecclesiastical goods from usurpers incur an excommunication specifically reserved to the Roman Pontiff, by virtue of Article XI of the aforementioned constitution?

3. Or, at the very least, do they incur an excommunication simply re-

Translated by churchlatin.ai, a product of Boyne Archives

served to the Roman Pontiff, by virtue of Chapter XI of the Decree of the Twenty-Second Session of the Council of Trent?

The Sacred Congregation of the Holy Office, on July 8, 1874, responded:

To 1. Negatively. It is certain that those who usurp ecclesiastical goods incur only the excommunication specifically reserved to the Roman Pontiff.

To 2. There is no doubt that those who purchase ecclesiastical goods from usurpers incur an excommunication reserved to the Roman Pontiff; for, setting aside the question of whether the aforementioned purchase in any way touches upon the Apostolic Constitution, Article XI, there is no doubt that it is included in the clear provision of Chapter XI of the Decree of the Twenty-Second Session of the Council of Trent.

To 3. As has been provided in the preceding response.

FROM THE DECISIONS OF THE SACRED CONGREGATION OF RITES.

The current master of ceremonies of the metropolitan church of Venezuela, humbly requested the following solution to the following doubts from the Sacred Congregation of Rites:

[*Latin ed. p. 332*]

332 From the Sacred Congregation of Sacred Rites, Questions:

I. In the cathedral church of Venezuela, for the blessing of the baptismal font on Holy Saturday and on the eve of Pentecost, a different candle is used in place of the Paschal candle, because the size of the Paschal candle does not allow it to be carried to said blessing. Can such a custom be tolerated?

II. In Masses of the Instruments of the Lord's Passion, which are celebrated in this diocese on the sixth day of Lent, by special concession, should the priestly vestments be of the color red, or rather, violet?

III. Should the anniversary of the consecration, but also the election of the Bishop, be celebrated with a votive Mass according to the rubrics in the cathedral church?

IV. Should a priest, on the anniversaries of the deceased, which are requested out of devotion, fulfill his duty by celebrating a Mass of the Saints, when, according to the rubrics, he cannot celebrate a Mass for the Dead (Requiem)?

V. Should the commemoration of the third and fourth days of Rogation be omitted in Masses of the first or second class?

VI. In votive Masses, which are celebrated for a grave matter in churches where only the Low Mass is sung, should commemorations be made that are permitted on feasts of the first class, namely of the Sunday, or of a greater feast day, or of a double or semi-double saint, of which the Office is recited on that day?

Translated by churchlatin.ai, a product of Boyne Archives

VII. For the larger churches, in which the deacon and subdeacon should serve at Mass with folded copes before the chest on days of fasting, do the parish churches also fall under this rule?

VIII. Should the commemoration of feasts, which are simplified in the year, be omitted at the second vespers, when a feast of the first or second class follows?

[*Latin ed. p. 333*]

Decisions 333: A question arises whether, on any day within the Octave, on the sixth day after the Octave of the Ascension, the Office should be recited on the day within the Octave, or rather on the sixth day? The Sacred Congregation, having heard the written opinion of one of the masters of the apostolic ceremonies, and having maturely and accurately considered the proposed doubts, decided to respond as follows:

To I: Affirmative, provided that the candle is also blessed, and five grains of incense are placed within it.

To II: Affirmative, in the first part; negative in the second part.

To III: Affirmative, and a decree shall be given with one pomegranate.

August 14, 1858.

To IV: The general decree, dated August 5, of the year 1662, is to be observed.

To V: Affirmative on days of the first class; negative on days of the second class.

DOUBT X. 21: Regarding doubt I of this cause: "Whether the solemn Mass on the anniversary of the election and consecration of a Bishop is obligatory in the cathedrals and collegiate churches of the diocese, although the *Caeremoniale Episcoporum*, book II, chapter XXXIV, n. 1, only states that it is fitting to celebrate it?" - Affirmative, if there is a mandate from the Bishop." (GARDELLINI, *Decreta authentica Congregationis Sacrorum Rituum*, appendix III, n. 5274, vol. V, page 26).

"The same Sacred Congregation, in order that the rubrics of the Missal be inviolably observed, strictly commands all and each priests, both secular and regular, of any Order, Congregation, Society, and Institute, also to diligently express, so that in the future they may completely observe said rubric, so that they may not dare, or presume, to celebrate private Masses for the dead, or Masses of Requiem, in duplicate. And if, by the prescription of benefactors, such Masses to be celebrated should fall on a feast day that is a duplicate, then they must not be transferred to another day that is not impeded, lest the delay be detrimental to the souls awaiting suffrage, but they must be said on the current feast day with the application of the sacrifice, according to the intention of those benefactors, and the pastors of the churches, sacristans, and others to whom it pertains, must take care that this decree be inviolably observed, and be affixed and kept in the

Translated by churchlatin.ai, a product of Boyne Archives

sacristy, where it can be conveniently seen and read by all those who wish to celebrate. And those who have dared to act contrary to this, or who have neglected to fulfill what is prescribed, shall be duly corrected by the local Ordinaries, both secular and regular, according to the nature of the offense... And having received a report on the aforementioned matters, His Holiness approved, and wished that the Sacrifice be applied, and the intention of the benefactors be fulfilled." (GARDELLINI, Ibid., n. 2178, vol. I, page 370).

[*Latin ed. p. 334*]

From page 334 of the Commonitores Sacrorum Rituum, Article I. Negative, and let a decree be given concerning a matter in one of the houses of the Order of Discalced Carmelites in the Province of Poland, on January 29, 1752. To Article VII. Affirmative, concerning the effect of which in this case. To Article VIII. Affirmative or negative, according to the rules of the table of precedence, just as if the matter were being treated officially. To Article IX. Affirmative concerning the first part; negative concerning the second part, and let a decree be given in Verona, on September 17, 1853. And thus it was written and it was commanded to be observed. On April 23, 1875. Cardinal PATRIZI, Bishop of Ostia and Velletri, Prefect of the Sacred Congregation. MECHLINIEN, Secretary of the Sacred Congregation. The Memoriale Rituum, ordered to be published by Benedict XIII, is permitted to be used for the performance of certain more important sacred "functions" in smaller churches.

1. Concerning a doubt regarding which we are speaking: "In churches of Regular Canons, in which there is no custom of singing the Mass of the current Office daily, whether in a solemn Mass, which is sung alone for a serious matter, or on the occasion of a solemn feast, for which the Office cannot be performed on the same day, the Mass of the day, namely, of the privileged Sunday; on a major feria; or on some other feast, should the Collect of the Office of that day be added, namely, of the feast, of the Sunday, or of the major feria?" To Article 9. "In solemn votive Masses, which are celebrated for a serious matter, or on the occasion of a solemn feast to be transferred to another day, even if only one Mass is sung, only one prayer is to be said" (GARDELLINI, Ibid., n. 4223, vol. II, p. 433). Concerning a doubt regarding which we are speaking: "According to the Decree of the Sacred Congregation of August 2, 1691, in Rome, in the Dubia, n. 10, on the sixth day after the Octave of Ascension, it is possible to perform the Office of a feast of the second class that has been transferred to another day; if on the aforementioned day, a day within the Octave of the Titulus should occur, is it to be done according to the aforementioned day, as some maintain; or according to the day within the Octave of the Titulus, to which, by right, the Symbolum belongs? - To Article 4. The Office is to be done according to the day within the Octave." (GARDELLINI, Ibid., n. 5196,

Translated by churchlatin.ai, a product of Boyne Archives

App. II, vol. IV, p. 176).

[*Latin ed. p. 335*]

Mechlin. 335 parish churches. In the diocese of Mechlin, there exist several churches which are not parishes, and chapels of religious orders, of religious brothers, and of nuns or religious women, in which, due to a lack of ministers, or of vestments, the offices of Holy Week and other similar ceremonies cannot be solemnly celebrated, but can be properly performed according to the aforementioned small Manual of Rites, as is often done in many of these churches and chapels. Furthermore, some people were hesitant as to whether they were permitted to use this Manual, and they presented their doubts to the compiler of the diocesan Calendar; he, in order to resolve the question, with the approval of the Most Reverend and Most Reverend Cardinal Archbishop, appealed to the Sacred Congregation, and humbly inquired of it. I. Whether, in these smaller, non-parochial churches and chapels, the offices of Holy Week and other similar ceremonies can be performed according to the Manual of Rites of Benedict XIII? II. If negatively, that the Sacred Congregation of Rites would deign to grant its use in these churches and chapels of the diocese of Mechlin. The Sacred Congregation itself, after mature and careful consideration, and after hearing the opinion of the Reverend Assistant of the same Sacred Congregation, decided to respond as follows: To the question: negatively. To the request, however, with a certain proviso, namely: that the requested permission be granted only to chapels, whether public or private, of nuns living under the rule of enclosure, and to other public chapels or churches, for the necessity of the place, or for great utility, according to the prudent judgment of the Reverend Ordinary for the time being, and with the consent of the Most Holy [Pope]. March 16, 1876. The agreements regarding the aforementioned were faithfully communicated to our Most Holy Lord Pope Pius IX by the undersigned Secretary.

[*Latin ed. p. 336*]

336 From a communication of the Sacred Congregation of Rites, His Holiness graciously approved the granting of the favor requested in the aforementioned resolution, but for a limited time, namely, for the next five years. On the 23rd of the same month and year. This is recorded in the Acts and Records of the Secretariat of the Congregation of Sacred Rites. From the same Secretariat, on April 26, 1876. Placidus Ralli, Secretary of the Sacred Roman Congregation. DECREE. ROME. Concerning the beatification and canonization of the venerable Servant of God, Elizabeth Canori Mora, a tertiary of the Order of Discalced Carmelites of the Most Holy Trinity for the Redemption of Captives. Presented by the Reverend Father George of the Virgin, a professed priest of the Order of the Most Holy Trinity for the Redemption of Captives, and promoter of this cause, the undersigned

Translated by churchlatin.ai, a product of Boyne Archives

Cardinal, Prefect of the Sacred Congregation of Rites and introducer of the cause, proposed the following question to the Ordinary Sessions of the Sacred Rites today held in the Vatican: Namely, whether the judgment rendered by the Reverend Cardinal, Vicar of Rome, concerning the cult of the aforementioned Venerable Servant of God, which has never been presented, should be confirmed in the case and for the purpose in question, in accordance with the decrees of the blessed Urban VIII, Pope. Furthermore, after careful consideration by the Reverend Fathers entrusted with safeguarding the rites, and after hearing the opinion, both orally and in writing, of the Reverend Father Lawrence Salvati, Promoter of the Holy Faith, it was decided to respond: Affirmative; that is, the judgment should be confirmed. May 27, 1876. Subsequently, the aforementioned matters were brought to the attention of the Most Holy Lord, Pope Pius IX, by the undersigned member of the Sacred Congregation of Rites.

[*Latin ed. p. 337*]

337 By a decree communicated faithfully to the Secretary of the Congregation, His Holiness has deemed it fitting and has deigned to confirm the opinion of the Sacred Congregation. On the 1st of June of the same year. C. Card. PATRIZI, Bishop of Ostia and Velletri, Prefect of the Sacred Congregation, S.R.C. S. Placidus Ralli, Secretary of the Sacred Congregation, S.R.C. DECREE. OF ROME, OR LUCANIA. Concerning the beatification and canonization of the venerable Servant of God, John Baptist Cioni, Priest, of the Congregation of Clerics Regular of the Mother of God, and the first member of the aforementioned Congregation, founded by the Blessed John Leonard. Whereas, on the third of the ides of June, in the year 1875, Our Most Holy Lord, Pope Pius IX, benignly decreed that the validity of all the proceedings in this cause be examined in the Ordinary Congregation of Sacred Rites, without the intervention or vote of the Consultors; and whereas, the Reverend Father Aloysius Narcissus Biagioni, Promoter of the Cause, and the Eminent and Reverend Cardinal Aloysius Billio, Proponent of the Cause, proposed the following question for discussion in the Ordinary Congregation of Sacred Rites held at the Vatican on the aforementioned date: Whether it is established that the proceedings in the aforementioned cause of the venerable Servant of God are valid: that is to say, whether the witnesses were examined properly, and whether the documents presented were legitimately obtained and relevant to the matter in question? Furthermore, the Eminent and Reverend Fathers entrusted with the safeguarding of the sacred rites, having carefully considered all matters, and having heard the voice and written opinion of the Reverend Father, Doctor Lawrence Salvati, Promoter of the Holy Faith, deemed it fitting to decide: Affirmative, excluding from the Ordinary Informative Process, especially Witness 207, the Promoter of the Cause, as well as Witnesses 7, 75, 77, 78,

Translated by churchlatin.ai, a product of Boyne Archives

126, 127, and 201; Acts, Volume IX, page CIL 22.

[*Latin ed. p. 338*]

From the Vatican, having examined the extrajudicial testimonies which serve as evidence. On May 27, 1876. The aforementioned matters, faithfully reported by the undersigned Secretary to His Holiness Pope Pius IX, were reviewed by His Holiness, who approved and confirmed the Decree of the Sacred Congregation. On June 1 of the same year. C. Card. PATRIZI, Bishop of Ostia and Velletri, Sacred Roman College, Prefect. S. Placidus Ralli, Sacred Roman College, Secretary. FROM THE VATICAN, Apostolic Letters TO THE VENERABLE BROTHERS BISHOPS OF THE BRAZILIAN REGION, PIUS IX. VENERABLE BROTHERS, GREETINGS AND APOSTOLIC BENEDICTION. Disturbances have arisen in this jurisdiction in recent years, caused by those addicted to the Masonic sect, who have infiltrated the societies of pious Christians, as you, Venerable Brothers, know, particularly in the dioceses of Olinda and Belém do Pará, leading to a serious conflict. These matters have caused us great distress and sorrow. We could not, without pain, observe how the pernicious pest of that sect has threatened the corruption of these societies, and how the institutions established to foster a sincere spirit of faith and piety have fallen into a miserable condition, overrun by a fatal crop of weeds. Therefore, prompted by our apostolic duty and moved by paternal charity for this part of the flock of Christ,

[*Latin ed. p. 339*]

Apostolic Letters 339: We have firmly judged that it is necessary to address this evil, and on May 29, 1873, We sent letters to you, venerable brother of Orense, in which We expressed Our sentiments against this deplorable perversion introduced into Christian societies, yet with moderation and clemency towards those deceived and misled by the Masonic sect, so that, at the appropriate time, We might suspend the censures to which they had fallen, in order that Our benevolence might lead them to detest their errors and to abandon the condemned associations they had joined. Furthermore, We commanded you, venerable brother of Orense, that after the lapse of that time, unless they had repented, you should suppress those societies and declare them suppressed, and that, with new members admitted who were free from all Masonic taint, they should restore their affairs completely, according to their original purpose. Moreover, when We, in the encyclical letter addressed to the bishops of the entire Catholic world, dated November 1, 1873, sought to protect all the faithful against the arts and snares of sects, We openly recalled to the faithful the pontifical constitutions against wicked societies of sects that had been promulgated, and We decreed that these constitutions did not apply only to the Masonic groups established in Europe, but to all those found in America and in

Translated by churchlatin.ai, a product of Boyne Archives

all parts of the world. Therefore, We could not but be greatly astonished, venerable brothers, that, after Our authority had removed the prohibitions, with which certain churches and societies in this region, widely infiltrated by Masons, had been burdened, this opportunity was seized to spread abroad the false assertion that the Masonic society in these regions was not subject to apostolic condemnation, and therefore that those sectaries could safely participate in the societies of pious Christians. But how much these things are contrary to the truth and to Our sentiments, it is clearly declared by the following facts:

[*Latin ed. p. 340*]

340 From the Vatican, as we mentioned above, and also in the letter itself which we wrote to the Most Serene Emperor of this region on February 9, 1875, in which, while promising that the interdict, which afflicted certain churches of these dioceses, would be lifted, we added this reservation and condition: that the Masonic adherents removed from the offices they held in the sodalities. This reason for our action had, and could have, no other purpose than to, once the Emperor's wishes were fulfilled in this regard, and peace of mind restored, provide the imperial government with the opportunity to restore the pious sodalities, cleansed of the Masonic taint, to their former state, and to ensure that those men, moved by our clemency towards them, who had been led astray by the damned sect, would strive to turn away from the path of perdition. And so that no doubt might remain in this serious matter, nor any room for deception, we do not fail, on this occasion, to declare and reaffirm once again that the Masonic societies, whether those in this region or those that exist elsewhere in the world, and those which are said by many, whether deceived or deceiving, to promote only social utility and progress, and the exercise of mutual benefit, are condemned and proscribed by Apostolic constitutions, and that all those who have given these same sects a false name, fall by that very act into a greater excommunication reserved to the Roman Pontiff. Moreover, we earnestly desire, venerable brothers, that you, either through yourselves or through your collaborators, warn the faithful about this pernicious plague, and that you strive with all possible means to keep them safe from it. And with no less concern, we commend to your zeal that religious doctrine be diligently imparted to the Christian people here through preaching the Word of God, and through suitable instruction; for you know the benefit that results from this aspect of the ministry, if it is properly fulfilled.

[*Latin ed. p. 341*]

Apostolic Letters 341 warn of the most grievous harms that result if this is neglected, for the Christian flock. But, besides those matters which we have discussed here, we are also compelled to deplore the abuse of power on the part of those who preside over the aforementioned associations,

Translated by churchlatin.ai, a product of Boyne Archives

who, as has been said, recalling all things to their own judgment, presume to claim an undue right in sacred matters and persons, and in those things which are spiritual, so that ecclesiastical men and parish priests themselves are subjected to their power in the performance of the duties of their office. This matter not only contradicts ecclesiastical laws, but also the very order established by Christ the Lord in His Church; for laymen are not appointed by Christ as rulers of ecclesiastical affairs, but they ought to be subject to legitimate pastors for their own benefit and salvation, and to offer themselves as listeners to them, and to those concerning the individual state, and not to interfere in those matters which have been entrusted to the sacred pastors by Christ. Therefore, we recognize nothing to be more necessary than that the statutes of the aforementioned associations be brought into proper order; and that those abnormalities and incongruities which exist in them in this regard be rightly reconciled with the rules of the Church and canonical discipline. To this end, we, venerable brothers, having considered the reasons that exist between the aforementioned associations and civil authority with regard to their temporal constitution and order, have already given appropriate instructions to our Cardinal in secret, so that he may act with the imperial government, and that concord with it may be directed towards achieving the desired results. We trust that civil authority will carefully consider this matter with us, and we earnestly pray to God, from whom all good things proceed, that He may deign to further and assist this work, which pertains to the tranquility of religion and civil society. In order that we may be worthy of these hopes, you also, venerable brothers, join your prayers to ours, and as a pledge of sincere affection.

[*Latin ed. p. 342*]

From the Acts, in place of the Consistory, receive our Apostolic Benediction, which We impart to you and to the clergy and faithful entrusted to your care, always in the Lord. Given in Rome, at St. Peter's, on the twenty-ninth of April, in the year 1876, in the thirtieth year of Our Pontificate. PIUS PP. IX. FROM THE ACTS OF THE PONTIFEX, IN PLACE OF THE CONSISTORY. Nominations of Bishops and descriptions of the Churches to which they are appointed. On June 21, 1876. The Most Holy Father, having held a Consistory on June 26, 1876, proposed the following Churches: 1. The CATHEDRAL CHURCH of Saint-Dié, vacant through the translation of the Reverend Father Louis Mary Joseph Eusebius Caverot to the Metropolitan See of Lugdunum, in the Province of Dauphiné; the Most Holy Father approved the nomination of the most illustrious man, Maurice de MacMahon, Duke of Magenta, President of the French Republic, to the aforementioned Church, and appointed the Reverend Father Mary Camillus Albert de Briey, born of legitimate, Catholic, and noble parents in the parish called Magné, in the Diocese of Poitiers, and having reached his fiftieth year. In Rome, he was ordained to the priesthood and recently

Translated by churchlatin.ai, a product of Boyne Archives

received a doctoral degree from the Gregorian University. He has been chosen as Superior, or Director, of the Congregation of the Sisters of St. Andrew in the city of Poitiers, and for many years has been honored as the Honorary General Vicar of that Bishop. The city of Saint-Dié, situated in the province of the Vosges, on a plain at the foot of the hills, under the best of skies, contains approximately eight thousand inhabitants, all of whom are Catholics, and are under temporary French dominion. 1. We have already presented other nominations of the same day in the preceding volume, pages 286 and following.

[*Latin ed. p. 343*]

Nominations of Bishops and Churches. 343 The cathedral church, dedicated to Saint Deodatus, Bishop, possesses an architecture that is partly Gothic and partly Roman, and it serves as a suffragan to the Archbishop of Besançon. Within its chapter, there are nine titular canons, among whom one serves as a penitentiary, another as a theologian, three as vicars, and choir boys, to whom, on more solemn feasts, are added students from the major seminary for divine service. The care of souls in the cathedral is exercised by the Canon-Archpriest, assisted by the aforementioned vicars. Furthermore, there is a parish church in the city of Saint-Dié, equipped with a baptismal font, several houses for the religious education of both sexes, some lay sodalities, a hospital, a charitable institution, a large seminary, and two smaller ones within the diocese. The extent of the diocese encompasses the entire province of the Vosges, and includes many other places.

The CATHEDRAL CHURCH of VALLIS-VIDONIS is vacant, having been freely and spontaneously relinquished by the Reverend Father Casimir Alexis Joseph Wicart, and accepted by His Holiness; His Holiness has appointed the Most Illustrious Maurice de Mac-Mahon, Duke of Magenta, President of the French Republic, to the aforementioned church, the Reverend Julius Dionysius le Hardy du Marais, born of legitimate, Catholic, and honorable parents in the city of Valenciennes, in the archdiocese of Cambray, and having surpassed his forty-third year of age. He is a priest, ordained, and has previously been awarded a doctoral degree in theology by the Roman university. He was formerly the first Vicar General in spiritual matters for the Bishop of Suessiones, and until now, the honorary Archpriest of Acqui. The city of Vallis-Vidonis, commonly called Lavai, is the capital of the province of Meduana, situated on the banks of the river Meduana, partly on a hill and partly on a plain, and enjoys a favorable climate, containing approximately thirty thousand inhabitants under temporal dominion of France. The cathedral church, under the title of the Most Holy Trinity, exhibits a structure that is both Gothic and Roman, and serves as a suffragan to the Archbishop of Tours. Its chapter numbers nine titular canons, or capitulars, including a theologian and a

Translated by churchlatin.ai, a product of Boyne Archives

penitentiary, several vicars, to whom are added seminary students and choir boys for divine service. The care of souls in this church is exercised by the Canon-Archpriest, assisted by four vicars. Furthermore, there are three other parish churches in the city of Vallis-Vidonis, each with a baptismal font, as well as two houses for men and several others.

[*Latin ed. p. 344*]

344 From the Acts of the Pontiff, concerning the Consistorial women's house, several lay sodalities, two hospitals, a large seminary and a small one in the diocese; but a house of piety is desired. The extent of the diocese encompasses the entire Mimatensis province, and includes more than several hundred thousand inhabitants. The CATHEDRAL CHURCH of Vivariensis is vacant, due to the death of the Most Reverend Louis Delcusy, the last Bishop who died outside the Roman curia. The Holy Father has appointed the Most Reverend Maurice de MacMahon, Duke of Magenta, President of the French Republic, to nominate the Reverend Joseph Michael Frederick Bonnet, born of legitimate, Catholic, and honest parents in the place commonly called Lungogne in the Mimatensis diocese, and who has reached the forty-first year of his age, to the newly vacant Church. The Bishop of Petrocoricensis, acting through his secretaries, has announced that the same Reverend is appointed General Vicar for spiritual matters in that diocese. The city of Vivariensis, or Vivarium, in the province of Ardeschae, on the banks of the Rhone, partly on the plain and partly on a healthy hill under the open sky, contains more than two thousand inhabitants and is under temporal dominion of the French. The Cathedral Church is a magnificent building of Gothic structure, dedicated to Saint Vincent, Deacon and Martyr, and is a suffragan of the Archbishop of Avenionensi. Its Chapter numbers nine titular Canons, with a theologian, a penitentiary, and other priests, who, along with the seminary students, chant the divine praises on the more solemn feasts, and instruct the boys of the choir. The Canon-Archpriest administers the care of souls in the church, assisted by two Vicars. No other parish church is found in the city of Vivariensis, nor any monastery, nor a house of piety, but there is a large seminary and two small ones in the diocese. The extent of the diocese encompasses the entire province of Ardeschae, extending approximately thirty leagues in length and fifteen leagues more or less in width, and includes many other places. The CATHEDRAL CHURCH of TUDEN is vacant, due to the death of the Most Reverend Raymond Garcia y Auton, the last Bishop who died outside the Roman curia. The Holy Father has appointed the Reverend John Mary Valero Nacarino, born of legitimate, Catholic, and honest parents in the place commonly called Malpartida in the Cauriensis diocese, and who has reached the forty-first year of his age, to the newly vacant Church. He received the order of the priesthood and later obtained a doctorate in sacred

Translated by churchlatin.ai, a product of Boyne Archives

theology.

[*Latin ed. p. 345*]

The following are the names of Bishops and Churches: 345 in the sacred canons, a license has been granted to Donatus. The Rector of the seminary in Conchensis, the Dean of the Faculty of Theology, and the Cathedral Canon of Conchensis have recently resigned. Tudae, commonly known as Tuy, is a city in Hispaniae, and in the province of Hellenis, Pontevedra, located in Gallaecia, near the Minium River and bordering Portugal. It consists of four hundred houses and is inhabited by over five hundred families, and is under the temporary dominion of the Most Serene King of the Catholics. The Cathedral Church, with its ancient and solid structure, is dedicated to the Blessed Virgin Mary, assumed into Heaven, and is a suffragan of the Archbishop of Compostella. Its Chapter, according to Apostolic letters entitled "Ad Vicariam," dated the ninth of September 1851, comprises five dignitaries, after the pontifical official: first, the Dean; then four canons, two of whom are theologians and two are penitentiaries; seven are canons by grace; and twelve are beneficed, dedicated to divine service. According to the same Apostolic letters, the care of souls in the Cathedral is still exercised by two vicars approved by the Bishop. Besides the Cathedral, there is no other parish church in the city of Tudensi, but there is a monastery for women, several lay sodalities, a hospital, and a seminary with students; however, a house of piety is lacking. The extent of the diocese stretches approximately twelve leagues in length and five leagues in width, and encompasses two hundred and seventy parishes, with the same number of locations.

Regarding the Episcopal Church of Cydonien, it is under the Archbishop of Crete, in a region among the infidels, and through the translation of the Reverend Father John Baptist Bagalà-Blasini to the Cathedral. The seat of Grosseto; the Most Holy [Someone] was elevated to the same Cydonien Church. The Reverend Father Francis Vitaliano, born in Naples to legitimate, Catholic, and honorable parents, and having reached the forty-seventh year of his age, has been appointed Coadjutor with future succession by the Reverend Father Vincent Matarozzi, the Bishop of Rubensis and Bituntini, who, due to his advanced age and the vastness of the diocese, needs the help of another to properly and fruitfully carry out the pontifical and other pastoral duties in both the city and the diocese. Attached to the clergy of Cavensi, the Reverend Father Francis has previously received a doctorate and a master's degree in sacred theology, and in both canonical and civil law, and is enrolled in the Neapolitan College of Theologians, and is distinguished in the performance of

Translated by churchlatin.ai, a product of Boyne Archives

ecclesiastical functions, by the grace of God.

[*Latin ed. p. 346*]

346 From the Acts of the Pontiff, he also diligently discharged duties in sacred missions, preaching, and hearing the sacramental confessions of the faithful. He served as Rector to Saints Roch and Sebastian, as Spiritual Director and President of the Noble Archconfraternity, as Superior in the Presbyteral Sodality, and as a member of the commission for pious legacies assigned by the Secretariate. He was appointed Pro-Synodal Judge for Cava, and as Pro-Synodal Examiner for the Pagans, both in the diocese of the Most Holy Trinity and in Nuceria, and he had previously resigned from the position of Canon Theologian in the Concatedral of Cava. The once vast and celebrated city of Cydonia, on the island of Crete, still groans miserably under the yoke of the infidels; whereas, the cities of Rubi, or Rubus, and Bituntum, or Butuntus, and also Budruntum in Apulia, in the region of Peucetia, the former built on a hill, within a circumference of nearly two miles, contains fifteen hundred houses and more than fifteen thousand inhabitants; the latter, built in a plain, within a circumference of about three miles, comprises four thousand houses and twenty-six thousand inhabitants. Both cities have their Cathedrals dedicated to the most Blessed Virgin Mary, ever Virgin, of ancient and Gothic structure, and they are suffragan to the Archbishop of Bari. The Chapter of Rubi numbers four dignities, the highest of which, after the pontifical office, is the Archdeaconate, followed by twenty-four Canons with their respective benefices, and numerous officials and chaplains; the Chapter of Bituntum consists of six dignities, the highest of which, after the pontifical office, is also the Archdeaconate, followed by thirty Canons with their respective benefices, thirty-six officials; furthermore, there are other priests and clerics serving in the divine ministry in both Cathedrals. In the former Cathedral, the care of souls is entrusted to the Chapter; however, it is exercised by a priest elected by the Chapter and approved by the Bishop; in the latter, it is entrusted to two Canons elected by the Bishop and removable at his will. 4 Besides the Cathedral, no other parish church is found in the city of Rubi; however, there are several monasteries for men and one for women, a lay sodality, and a charitable institution. In Bituntum, there are seven other parishes with baptismal fonts, several monasteries for men, and two for women, one orphanage, several lay sodalities, a hospital, a charitable institution, and a seminary.

[*Latin ed. p. 347*]

List of Bishops and Sees 347. Dioceses united, extending to nearly eight thousand, and containing many places under their jurisdiction.

EPISCOPAL SEE OF PARIS. Under the Archbishop of Cyzicus, in lands among the infidels, vacant due to the death of the Most Reverend Aloy-

Translated by churchlatin.ai, a product of Boyne Archives

sius Charles Buquet, the last Bishop, who died outside the Roman curia. The Most Reverend has been appointed to this See, and has appointed the Reverend Michael Rosset, born of legitimate, Catholic, and honorable parents in the place called Betonnet, in the archdiocese of Chambéry, as Apostolic Administrator for the city and diocese of Maurienne. This appointment was made according to the decree of the Sacred Congregation of Councils, approved by the aforementioned Holiness. He had previously been a Metropolitan Canon of Chambéry, an honorary canon, Rector of that seminary, and for many years a Professor of Sacred Theology there, from which he had resigned. The city of Paris in Mysia, in Asia Minor, near the Propontis, is still held under the yoke of the infidels; therefore, its miserable condition is passed over in silence.

EPISCOPAL SEE OF ALALIA. Under the Archbishop of Damascus, in lands among the infidels, vacant through the succession of the Reverend Father Anthony Mary Curcio to the Cathedral See of Oppido. The Most Reverend has been appointed to this See, and has appointed the Reverend Father John Rudolph Kutschker, Auxiliary to the Most Reverend Archbishop of Vienna, to perform pontifical and other pastoral duties in that city and archdiocese, with his consent and willingness, according to the decree of the Sacred Congregation of Councils, approved by the aforementioned Holiness. The Reverend Father Edward Angerer, born of legitimate, Catholic, and honorable parents in the Leopoldine suburb of Vienna, and appointed in his sixtieth year. He was once devoted to the care of souls in the town of Brunn, near Vienna. Among the Most Reverend's closest chamberlains, he was first appointed to the first rank, and then among the domestic prelates, he was designated General Vicar in spiritual matters for the city and archdiocese of Vienna. The city of Alalia in Phoenicia is still miserably held under the yoke of the infidels; therefore, its infamous condition is passed over in silence.

EPISCOPAL SEE OF ROSEN. Under the Archbishop of Anazarbus, in lands among the infidels, vacant due to the death of the Most Reverend John Bochenski, the last Bishop, who died outside the Roman curia. The Most Reverend has been appointed to this See, and has appointed the Reverend Father Charles Gigli, Auxiliary to the Most Reverend Bishop of Tiburtina, to perform pontifical and other pastoral duties in that city and diocese, with his consent and willingness.

[*Latin ed. p. 348*]

348 From the Acts of the Pontiff, in the place of Consistorial Acts, the Most Reverend Father Peter Saulini, born of legitimate, Catholic, and honorable parents in the town of Civitella, near the Subiaco Abbey, having surpassed his fifty-first year of age. He was ordained to the priesthood and, through the Roman College, obtained a doctorate with honors in sacred theology, and a doctorate in both Canon and Civil Law. Having devoted

Translated by churchlatin.ai, a product of Boyne Archives

himself to studies in the Sacred Congregation, and elected Advocate in the Roman Curia, he was appointed to the honorary rank of Prelate of His Holiness's household. He has served once, and then again, and until now, as General Vicar in spiritual matters for the Verulana city and diocese, and he has been specially delegated to govern the same diocese. In that seminary, he was chosen as Professor of both Canon and Criminal Law, as a Visitor, as a Judge, as a Synodal Examiner, and as a Canon of the Cathedral until now. The ancient city of Rosea, in the province of Cilicia Secunda, is still held by infidels; therefore, its condition passes without mention. The Episcopal Church of Abydos, in the lands of the infidels, was promoted to the same Church, the Most Reverend Father Aloysius Bruschetti, a priest from the Diocese of Cingoli, Apostolic Protonotary, and serving as the Substitute Nuncio in the Brazilian Empire. By Papal Brief, the following Churches were provided for: The Archiepiscopal Church of Marianopolitana, in the lands of the infidels, was conferred upon the Most Reverend Ignatius Bourget, already Bishop of Montreale in Canada. The Episcopal Church of Claudiopolitana, in the lands of the infidels, was conferred upon the Most Reverend Idelfonso Infante y Macias, of the Order of Saint Benedict, archdiocesan priest of Hispalis, intimate Prelate of His Holiness's household, Apostolic Administrator of Gaditana, and Doctor of Sacred Theology. The Episcopal Church of Raphanen, in the lands of the infidels, was conferred upon the Reverend Father Francis Duboin, a priest of the Congregation of Saint Spirit, Apostolic Delegate to Senegal and Gambia. The Episcopal Church of Dibonen, in the lands of the infidels, was conferred upon the Reverend Father James O'Connor, an archdiocesan priest.

[*Latin ed. p. 349*]

Nominations of Bishops and Churches 349. Philadelphia. A Vicar Apostolic has been appointed for the state of Nebraska, within the United States of America. Furthermore, a request for the Pallium has been made to the Most Holy Father for the Metropolitan Churches of Lyons and Albi. FROM THE HOLY CONGREGATION FOR THE DISCIPLINE OF THE CLERGY. March 4, 1876. Summary of Facts. The canons and mansionaries of the Cathedral, which remained under the dominion of the Republic of Venice as long as that noble Republic flourished, applied the conventual Mass in various ways at different times. First, they applied the same Mass for the Most Serene Republic, from which they obtained an exemption from contributions. Then, for the Emperor of Austria, under whose dominion Venice fell. The Mass, however, was to be applied for benefactors in general, or only on Saturdays, or not at all, contrary to the sanction of the canons. However, on June 30, 1828, by Apostolic Letters issued by Leo XII, the aforementioned Chapter's established custom was changed. Therefore, from that time forward, the Chapter had only canons, along with

Translated by churchlatin.ai, a product of Boyne Archives

two dignities: namely, the Provost and the Dean. Each canon received an annual pension assigned by the government; and this method of applying the conventual Mass was maintained until the year 1840. However, the Ordinary, having heard and with the consent of the Chapter members, on June 17 of that year, decided that the conventual Mass should...

[*Latin ed. p. 350*]

350 From the Sacred Congregation, concerning the procedures for the observance of the Holy Canons, and especially the Constitution of Benedict XIV, it is decreed that the customary daily Mass, offered without distinction by the canons of Grado in turn, should be applied for the benefit of benefactors in general, and also that on the days prescribed by the general rubrics, the second and third Masses should be subject to the obligation of offering. By this decree, the Mansionaries were released from the obligation of celebrating the conventual Mass on weekdays; for this began to be celebrated daily in turn by the canons, except for certain solemnities, in which the Prefect and Dean, specially designated by the canons, were obligated. The second and third Masses, however, began to be celebrated on the days designated by the general rubrics, but with free application. Having explained these matters concerning the custom of the conventual Mass, it is reported that sometimes a canonry or dignity becomes vacant, and then the celebration of the conventual Mass is indeed performed by others in turn, or by another dignity, or by the senior canon according to the law of devolution, but with free application. Similarly, it is the custom in the aforementioned chapter that when the Episcopal See is vacant, or when the Bishop is unable to perform his duties, and the first dignity, namely the Prefect, is impeded, to whom, according to the statutes of the chapter, the celebration and application of the conventual Mass would normally belong, an alms should be given for the application of the same Mass to that canon who represents him according to the law of devolution, except for the first Mass on the feast of the Nativity of Our Lord Jesus Christ, which is for free application. It must also be noted that the canons are sometimes in such a condition that they receive a monthly pension from the civil government, for the support of the religious order. Thus, the pension for the Bishop, when the See is vacant, and the pensions of canonries or dignities that are vacant within the religious order, remain. There is no other fund that provides alms for the celebration of conventual Masses during a vacancy, other than that which belongs to the person according to the law of devolution.

[*Latin ed. p. 351*]

Missae Conventualis 351. Wherefore, the Canons, before the Sacred Congregation, humbly requested the following: 1.° Whether, in the case of an impediment of the Bishop, or a vacant See, the Chapter, which succeeds

Translated by churchlatin.ai, a product of Boyne Archives

the deceased Prelate, is, by right of devolution, obligated to apply the Mass celebrated on the Bishop's days for the benefit of the benefactors in general. 2.° Whether this first Substitute, being legitimately impeded, is obligated to provide the alms for the Mass on the Bishop's days to that Canon who succeeds him by right of devolution.

A synoptic discussion: ON WHAT THINGS ARE DONE AGAINST THE APPLICATION OF THE MASS. Notwithstanding any custom to the contrary, or the tenure of revenues, the Conventual Mass must be celebrated daily in all Patriarchal, Cathedral, and Collegiate churches, and applied for the benefit of the benefactors in general. This is deduced from the prescription of Honorius III in chapter "Cum creatura," concerning the celebration of Mass; from Benedict XIV in his Constitution "Cum semper oblatas"; and from numerous resolutions of the Sacred Congregation, especially in Caserta, May 24, 1873, §. Indeed, if the words of the aforementioned Constitution are considered, not only is one Conventual Mass to be celebrated daily and applied for the benefit of the benefactors, but also this obligation remains concerning the second and third Mass on the days prescribed by the general rubrics, unless the Chapters have obtained an exemption, considering the tenure of the canonries and benefices; for it is written in the aforementioned place, § 21: "And before that (question) was proposed, it had already been determined by the same Congregation that an exemption could be granted from the obligation of applying the second and third Conventual Masses for the benefit of the benefactors in general, considering the tenure of the canonries and benefices; from which it could be inferred that this obligation remained, where the matter concerned poor churches."

[*Latin ed. p. 352*]

352 From the Sacred Congregation, it is stated that this obligation must be fulfilled by the chapter, as indicated in the cited Constitution, § 12. The Sacred Congregation confirms this in several resolutions, especially in Faventina on April 29, 1786, § "Prae oculis"; in Gaeta, regarding the Conventual Mass, on December 16, 1837, § "Hucusque." Furthermore, it has been repeatedly questioned to whom it pertains to celebrate a solemn Pontifical Mass in the absence or impediment of the Bishop, and the constant response of the Holy Roman Church on this matter has been that it pertains to the highest dignity, or to others if they are present; otherwise, to the older canon, as testified by Ferraris, V. Canon. a. 5, n. 85: "To celebrate Pontifical Masses, in the absence of the Bishop, pertains to the highest dignity or to the older canon, and not to the hebdomadary canon." The Sacred Congregation, in Taranto on January 10, 1597, and in Valladolid on June 11, 1606, and in Pisa on March 21, 1609, and n. 88: "The highest dignity, if it wishes to perform episcopal functions, must also sing the Mass; otherwise, it pertains to those who follow, with the same condition." The Sacred Congregation also confirmed this in Arezzo

Translated by churchlatin.ai, a product of Boyne Archives

on January 30, 1612, in Tirassona in 1614, and in Neritona, on the same day and year. These resolutions of the Sacred Congregation are confirmed by the Council Congregation in Lisbon, Orientalis, on December 5, 1882, in which, in addition to other subsequent questions, the following were proposed:

I. Whether the Dignities of the Cathedral Church of Lisbon, Orientalis, legitimately and without impediment, are obliged to celebrate solemn Masses themselves on the major annual feasts, if the Archbishop is not celebrating, or rather, whether they are permitted to do so through a substitute in such a case.

II. Whether, if there is a legitimate impediment preventing the dignity that should celebrate, the said solemn Mass should be celebrated by the next closest dignity without impediment, or rather, whether it can be celebrated by any canon or other substitute or hebdomadary in such a case.

And the response was: To I, affirmative regarding the first part, and negative regarding the second part. To II, the solemn Mass should be celebrated by the next closest dignity if the first is impeded.

[*Latin ed. p. 353*]

Three hundred and fifty-three Conventual Masses were legitimately impeded, and the impediment must conform to the form of the statute, and all Dignities, as mentioned above, being legitimately impeded, the Mass is to be celebrated by the Canons, beginning successively from the senior. Given these principles of law, it does not seem that the celebration of the Mass pertains to a higher office. For the aforementioned decrees do not contain a single word about this application, but only about the solemn celebration; therefore, neither from the general law, nor from the chapter statute, does the Dean seem to be bound by the obligation of applying the Conventual Mass on the days of the Bishop, or when the See is vacant, or when the Bishop himself is impeded, and when the Praepositus is absent; and it would seem that he should not be burdened with this obligation at all. For it is clear from the resolutions of the Sacred Congregation, especially in Collen, in *Applicationis Sacrificii* of December 17, 1679, book 4, Decrees, page 4, and many others, that the prescribed celebration does not necessarily include the application. This conclusion would be even more strongly supported if it were admitted that the Dignity should not feel a double inconvenience on these days, while the Hebdomadarius [chaplain] would experience the entire benefit contrary to the prescription. *Novis. ff. ad leg. hoc de iact.* Therefore, when the Bishop is celebrating, the Hebdomadarius, or he to whom the obligation of applying the Conventual Mass belongs, is bound to celebrate it before or after the Pontifical Mass, as was decreed by the Sacred Congregation in Marsorum on November 12, 1831, in response to question 20 presented by Gardellini, number 4669 - there - "When the Bishop must apply [the Mass] for his people on festive days, it

Translated by churchlatin.ai, a product of Boyne Archives

is asked whether, when the Bishop celebrates pontifically on these festive days, the Canons must chant the Conventual Mass for the benefactors, and when. The response was: 'The Hebdomadarius, or he to whom the burden of the Conventual Mass belongs, should celebrate it before or after the Pontifical Mass'; thus, in our case, it would seem that something similar should be said, namely, that the celebration of the Pontifical Mass pertains to the Dean or the higher office of the Chapter. *Acta, tom. IX, fase. CH. 23*

[*Latin ed. p. 354*]

354 From the Sacred Congregation, it is not to be done for the benefit of benefactors in general, either before or after the aforementioned Mass, by the hebdomadary. THOSE THINGS WHICH REMAIN AFTER THE APPLICATION OF THE MASS. However, it cannot be overlooked that, from the very words cited from the aforementioned Constitution, the celebration of the conventual Mass cannot be separated from its application for the benefit of benefactors in general. Indeed, the praised Pontiff commands in § 11: that the conventual Mass, which is sung daily by the clergy of the aforementioned churches, should be applied daily for the benefit of benefactors in general; and in § 20: that it has been recently stated by us that the first conventual Mass should be celebrated and applied daily for the benefit of benefactors in general. Therefore, it would seem that the application of the conventual Mass on these days pertains to him to whom the celebration pertains. However, according to the aforementioned decrees, both of the Sacred Congregation and of the Holy Council, the celebration pertains to the next in dignity, and in its absence, to the Canons, successively beginning. Therefore, if the Bishop does not perform his pontifical duties and the Presidency is vacant, the application of the conventual Mass pertains to the Dean, and in his absence, to the senior member of the Chapter. And this also seems to be suggested by right reason, since it is most fitting that he who succeeds in honor should also succeed in duty, according to rule 77 of the regulations of law in 6, from which the common saying arises: where honor is, there is also duty. But honor is granted to the Dean, and in his absence, to the senior member of the Chapter. Therefore, it must also be the case in duty. Nothing seems to be gained by introducing contradictory observations, which indicate that, in similar cases, the conventual Mass has never been applied by the Dean. In this matter, any prescription or custom has been rejected as a corruption by Benedict XIV in the aforementioned place, § 16, and by the Sacred Congregation in *A Alexandrina*, April 26, 1753. From some resolutions of the Sacred Congregation, it seems that the term "celebration" does not include the application, and therefore, in...

[*Latin ed. p. 355*]

Regarding the Conventual Mass, if the Dean or the senior Canon is excused from celebrating the Conventual Mass, this does not contradict a

Translated by churchlatin.ai, a product of Boyne Archives

certain decree of the same Holy Congregation, which stipulates that the Mass must be offered for the founder, even if he himself has not expressly requested it. Concerning the doubt, it seems that the alms are to be paid from the distribution of the Mass, as several authorities attest, including resolutions of the Holy Congregation. Thus, in the case of Saint Severinus, the alms for the Conventual Mass of February 18, 1746, § 5, and in Vallen, regarding the alms for the Conventual Mass of August 22, 1874, are mentioned among the Summaria Precum. If, by chance, there is no distribution of the Mass, it has been repeatedly resolved by the Holy Congregation that it should be prepared according to the prudent judgment of the Bishop. In the present case, it is certain that there was no common Mass, as confirmed by the confession of the Canons, and these principles of law do not seem to apply. However, since it is certain that he who serves at the altar ought to live off it, it seems fitting that, in the case of a legitimate impediment, the alms for said Mass should be given by him to whom they belong by right of devolution. This is also confirmed by the custom of the same Church, which ought to be fostered, rather than destroyed. On the contrary, it should be noted that when the Conventual Mass is celebrated, and if separate stipends are offered, during the vacation period, the alms for the Conventual Masses are to be paid by the Subcollector of Spoils: Lucidi de Visit. SS. LL., vol. i, page 311, n. 131. In the Holy Congregation in Fermo, regarding the Conventual Mass of January 20, 1838, in which the question was raised: "Whether and by whom the alms for the Conventual Mass are to be paid during the vacation period, in the case of separate stipends offered?" the answer was: "Affirmatively, by the Subcollector of Spoils." However, since the fund of the religious order is involved in this matter, the alms for the Conventual Mass should be paid from that fund by the Subcollector of Spoils, as stated in Recole, Volume VIII, page 661; and after the deductions, page 666.

[*Latin ed. p. 356*]

356 From the Sacred Congregation, and not at all from the Capitular decrees, pertains the right, by law of devolution, to celebrate the aforementioned Mass on the more solemn days. Furthermore, the Capitulars ought to collect from the aforementioned religious fund the sum for such Masses; and if they obtain nothing, the Mass must be celebrated by any canon to whom this obligation has devolved by law. For the communal Masses belong to the entire Chapter; and they are to be celebrated without any payment. Decree of the Sacred Congregation, April 15, 1780, § Again. Pignat, volume 1, consultation 321, number 1 and following. Ferraris, in the cited place, number 76 and following. Therefore, when the right to celebrate the aforementioned Mass has devolved by law to another, the application of the Mass pertains to him, without any payment. Having considered these and other matters pertaining to both sides, two proposi-

Translated by churchlatin.ai, a product of Boyne Archives

tions were to be resolved concerning the doubts. I. Whether the Bishop, if hindered, or the vacant See, which is superior to the Chapter that succeeds the deceased Prefect, is, by law of devolution, obligated in the celebration of the Mass on the Bishop's days, to apply the Mass for the benefit of the benefactors in general, in this case. And this is affirmative. II. Whether this first substitute, legitimately hindered, is obligated to provide the alms for the Mass on the Bishop's days to that canon who succeeds him by law in this case. RESOLUTION. The Sacred Congregation, having knowledge of the matter, judged it fitting to respond as follows: To I. Negatively; and the Mass for the benefactors is to be celebrated on that day by the hebdomadarius (chaplain). To II. Provided for in the first. CONSEQUENTLY, IT IS UNDERSTOOD: I. That, according to the resolutions of the Sacred Congregation, the Pontifical Mass on the more solemn days of the year pertains to the first [member of the Chapter].

[*Latin ed. p. 357*]

357. The Conventual Mass: The dignity, or, if present, others, should attend, insofar as the Bishop is absent, or hindered.

I. Indeed, it has often been answered by the Sacred Congregation that, if the first dignity, or other dignities, are hindered, the Pontifical Mass should be celebrated by the Canons alone, beginning with the most senior.

II. However, if it is certain that the more senior member of the Chapter should attend the celebration of Mass on the more solemn days of the year in the absence of the Bishop, the same cannot be said of the obligation to assist at that same Mass.

IV. For it is clear from numerous resolutions of the Sacred Congregation that this prescription, which imposes the burden of attending the celebration, does not necessarily entail the obligation of assisting at the Mass itself.

V. If such an attendance at Mass were to entail the obligation of assisting at it, the more senior member would suffer a double burden, while the hebdomadarius [chaplain] would gain no benefit whatsoever.

VI. Consequently, it would follow that the hebdomadarius, or the one to whom the obligation of assisting at Mass belongs for that day, would be excused from the obligation of assisting at the Mass; a Mass which he should, as is proper, attend before or after the Pontifical Mass; while the more senior member would be burdened with the obligation of performing the pontifical duties, and then of assisting at the Mass.

VII. In this situation, if the first substitute were burdened with the obligation of assisting at Mass for the benefit of the benefactors in general on the days of the Bishop, or if the Bishop himself were hindered from providing alms, the Canon who succeeded him would be unjustly burdened with an

Translated by churchlatin.ai, a product of Boyne Archives

obligation, to the detriment of the hebdomadarius.

[*Latin ed. p. 358*]

From the Sacred Congregation, 358, concerning the age for admission into the Seminary, dated June 10, 1876. Through a summary of petitions. The Most Reverend Archbishop of the Archdiocese of U. presented the following to the Sacred Congregation: "I am accustomed to receive into the Archdiocesan Seminary of this Archdiocese boys who are to be educated religiously and instructed in ecclesiastical disciplines, as soon as they have begun their twelfth year; believing that the words of the Council of Trent – 'they shall be admitted who have completed at least twelve years' (Session 23, Chapter 18, concerning Reform) – can be understood as follows: 'The year begun is considered complete,' and in accordance with the laws of the Church concerning the years required for advancement to the Sacred Orders (canon 12 of the same session). "Some reject this interpretation and my practice, arguing that the words of the Council of Trent should be understood to refer to whole and complete years; so that only those who have completed their twelfth year can be admitted: and they urgently insist that I should dismiss those whom I have already admitted in the beginning of their twelfth year. "In order to put an end to these opinions, I humbly appeal to this Sacred Congregation, which is responsible for pronouncing authentic interpretations of the text of the Council of Trent, and I humbly propose the following question, the resolution of which is urgently required due to the particular circumstances of this place: 'Are the words of the Council of Trent, by which the age of boys to be admitted into the Seminary is established, namely – 're-

[*Latin ed. p. 359*]

Concerning the age for admission to the Seminary: 359. "Those who have completed at least twelve years should be excluded." Should this be understood as referring to the twelfth year begun, or "only the twelfth year completed?" A concise discussion. Ferraris, in *Verb. annus*, § 2, states: "The year, so that it may be correctly reckoned in the Holy Canons, Bulls, Decrees, Statutes, and similar documents, must be regulated according to the following rules observed by theologians and canonists."

§ 3. - 1.° If the laws, Bulls, etc., assign an age in the general sense, as if it were said, "no one shall act unless he is 20 years of age," then the completed year is required: Sylvester in *Summ. verb. aetas*, q. 2; Azor, *tom. l, Inst. Moral*, lib. 5, cap. 28, §. It is a doubtful question, as Portellus states in *dub. Regul. verb. Annus*; Lezzana and others.

§ 4. - 2.° If they assign the age using the accusative case and the preposition "ad," as if it were said, "four years are sufficient *ad*," then the years begun are sufficient: Qui filium *ff. ad* Trebell. and DD. cited.

§ 5. - 3.° If they assign the years in the accusative case with the preposi-

Translated by churchlatin.ai, a product of Boyne Archives

tion ”per,” for example, if it is said, ”through seven years,” then the completed years are required: *leg. Non putabam*, *leg. si annos ff. de condit*, and DD. cited.

§ 6. - 4.° If they assign the years with the preposition ”ante” and the accusative case, for example, if it is said, ”before twenty-two years,” then the years begun are sufficient; this is gathered from the Council of Trent, session 23, chapter 12, where, assigning the years required for admission to the Holy Orders, it says, ”before twenty-three,” ”before twenty-five,” which demonstrates the practice of the Church concerning years begun.

§ 7. - 5.° If they assign the years with the preposition ”post” and the accusative case, for example, if it is said, ”after ten years,” then it is to be understood that the completed years are meant: this is gathered from the Council of Trent, session 23, chapter 11, where it commands that no one be advanced to the Holy Orders unless after having completed the years.

[*Latin ed. p. 360*]

360 From the Sacred Congregation’s decree concerning the final stage of the Minor Orders, which understands ”year” to mean the completed year. § 8. - 6.° If the year is expressed with the preposition ”in” and the ablative, e.g., if they say that something will be done ”in the fifth year,” then the fifth year begun is sufficient, so that something can be done on any day of that fifth year, and it is said that it will be done ”in the fifth year,” no matter on which day that fifth year began. § 9. - 7.° If in Bulls, Decrees, etc., no other meaning is found from the aforementioned particles, and the matter is doubtful whether it should be understood of years begun or completed, then in matters favorable, years begun are sufficient, according to the law. Therefore, in all matters concerning actions and obligations, I. 3, § minorem ff. concerning minors, and the Roman Rota, part. 175, n. 7, cited above. From the above, it seems that the expression ”who have been born for at least twelve years...” is equivalent to ”who are found to be at least twelve years of age.” Indeed, in these cases, it has been shown that it is of years begun, and not of completed years, that we are speaking. This interpretation is to be understood even more, because it concerns a matter that is favorable, which the well-known principle ”favorable things are to be extended” teaches should be interpreted broadly. However, the expression used by the Council, ”who have been born for at least twelve years,” bearing the preposition ”in” before it, as Facciolati points out in his *Calepinus*, seems not to be understood as referring to years begun, but to completed years. Indeed, if someone must have been born at least twelve years prior, it seems that the twelfth year completed must be the one intended, otherwise the cited law, which states that in a doubtful and favorable matter, a year begun is to be considered as completed, would not

Translated by churchlatin.ai, a product of Boyne Archives

be verified, because, besides the fact that it is undoubtedly the case...

[*Latin ed. p. 361*]

The secular parish's conversion into a regular one, in Karlova, might seem, to someone who has already reached that age, to be a matter of another kind, hence it would appear that we are not dealing with a favorable matter, but with an odious one, and therefore a strict, rather than a generous, interpretation must be made. You see the matter concerning Viterbo. On February 27, 1875. Having briefly explained these matters, the judgment was deferred to the Most Reverend and Reverend Fathers, to determine what response should be given to the question. RESOLUTION. The Holy Congregation, on June 10, 1876, having considered the matter, decided to respond as follows: Those who are supported by the expenses of the Seminary can be received at the beginning of the twelfth year; but the others are not included in the law of Trent. FROM THE DECREES AND RESPONSES OF THE HOLY CONGREGATION FOR BISHOPS AND REGULAR CANONS, CONCERNING THE CONVERSION OF A SECULAR PARISH INTO A REGULAR ONE. June 2, 1876. Summary of the case. The parish church dedicated to Saint Stephen, located in the city of C., subject to the Austrian Empire, having deteriorated over a long period of time, finally collapsed in the year 1803. Therefore, the Austrian Government took steps to transfer the care of souls to the Carmelites, and established a part of the convent for the residence of the parish priest and his vicars. The Archdiocesan Curia obtained an Indult and an Apostolic Brief from Leo XII, by which the Carmelites were suppressed, and their goods were assigned to the church of Saint Stephen. However, after a short interval of time, the Carmelites obtained (through the prayers of the people, the Senate,

[*Latin ed. p. 362*]

362 From the Sacred Congregation of Bishops, Regular Canons, and Clergy, to which the matter was brought, so that the decree of suppression might be revoked, and that their Monastery might be restored to its former rights and free possession. However, the Archbishop, without granting execution to the Rescript, added conditions to the Carmelites, which were considered burdensome by them, and which were contrary to the decree. Therefore, although in vain, the Carmelites appealed to the Holy See. It happened that in the year 1856, the parish of Saint Stephen was vacant; in addition to this, the Fathers of the Carmelites addressed the Ecclesiastical Consistory and the civil government, demanding either that the parish of Saint Stephen be transferred to another church; or that the secular benefice be converted into a regular one, the administration of which would be ceded to the Fathers of the Carmelites. The Holy See approved, and benignly granted to the Vicar Capitular all the faculties necessary to carry out the union of the Church of Saint Stephen with the benefice of

Translated by churchlatin.ai, a product of Boyne Archives

the Church of Saint Anne in the same city. However, this transfer did not please the civil government; for it would diminish the number of parishes, to the detriment of the people. Therefore, at the urging of the Holy See, the Carmelites requested, in accordance with the expressed desire of the civil government, that the benefice of Saint Stephen be made regular rather than united to another parish church. For they declared that they could no longer endure the vexations, damages, and scandals with which they were almost daily afflicted. For, among other things, it happened that, while the Fathers were chanting the Divine Office before a large number of the faithful, the secular parish priest, on the other hand, in the same church and at the same hour, celebrated Mass for the dead, wearing black vestments. They declared that it was no longer possible to maintain the enclosure; since the access to the Convent was open to persons of both sexes: the temple, splendidly built and maintained by the Fathers of the Carmelites, had fallen into such neglect that squalor reigned throughout. From these circumstances, they declared, it was clear that it was necessary, in order to remove the disturbances and scandals, that only they should...

[*Latin ed. p. 363*]

The secular parish's conversion to a regular one was considered beneficial for the Church, as it would enhance the worship and administration of that Church, to which a large number of pilgrims are accustomed to come, drawn by piety. A concise discussion. FROM WHAT OPPOSITIONS ARISE. The Ordinary, within whose jurisdiction the aforementioned Church is located, opposed such a conversion, based on the following reasons: 1.° Because it would inflict a great injustice upon the secular clergy if the secular benefice of St. Stephen, losing its own character, were to be converted into a regular one; 2.° Because the University of C., which enjoys a privilege, forbids that the parish priest of St. Stephen be chosen among its professors; 3.° Because the civil government would oppose this conversion; for, as the Ordinary informed me, it would in no way allow the aforementioned benefice to become regular, especially since the same government claims for itself the right of patronage regarding the benefice of St. Stephen. A great sum of money had been spent on the restoration of the building to construct a rectory there; thus, it would be unjust, without great injury, to prevent the secular priest and administrators from residing in that place. The difficulties presented by the Ordinary, and his firm will against such a conversion, are based on law, which is evident. He cites, without doubt, from the same work, chapter "In Ecclesiis de cap. Monachor." In Churches where monks reside, the people are not governed by a monk: and chapter "Monachi de statu Monachorum," monks are not received into the monastery for a price, nor are they permitted to have property, nor are they assigned individually to villages and towns or to any parish churches, but they remain in a larger community, or with some

Translated by churchlatin.ai, a product of Boyne Archives

brothers, nor do they alone among secular people await the conflict with spiritual enemies. From this, Bouix argues, in his work "De Iur. Regular," page 5, chapter 4, relying on the opinion of many authors, that ancient principles have been altered, by virtue of which, even...

[*Latin ed. p. 364*]

364. It was possible for the administration of secular parishes to be entrusted to monks of Episcopal and Regular orders. Furthermore, the Ordinary, to whom the strict duty of protecting the rights of his clergy is entrusted, relies on the general principle that governs the economy of the Church, namely that secular benefices should be conferred upon secular clergy, and regular benefices upon regular clergy. This rule receives repeated confirmation in canon law through various canons; among these is the Clementine decree, *Quia regulares*, concerning the supplementing of the negligence of Prelates. For Pope Clement V, in the Council of Vienne, decreed that Ordinaries should supplement the negligence of Regular Prelates who, having been entrusted with benefices, had neglected to confer them, citing the following rule: "Those benefices, namely, which have customarily been administered by secular clergy, should be conferred upon secular clergy; and those, on the other hand, which are usually entrusted only to religious, or conferred upon religious, should be conferred upon religious in monasteries." Finally, Fagnanus, although he admits that Regulars can obtain secular parishes, with a prior Apostolic dispensation, based on a resolution of the Sacred Congregation, approved by Gregory XIII in 1581; he also gathers from the same resolution that a dispensation should be granted at the request of the Ordinary. Thus, in chapter *Quod Dei timorem*, concerning the state of monks, paragraph 17: "When it has been asked whether a Regular can be placed in charge of a parish by a Bishop without an Apostolic dispensation, the Sacred Congregation of the Council judged that it cannot, unless with the addition of a dispensation, which does not seem to be granted except at the request of the Bishop for the necessity or benefit of the Church. And in other cases, when it has been asked whether a Regular can permanently be placed in charge of a parish, namely, due to a shortage of priests, the response was that it can be permitted, provided that the income is reduced, and what remains is converted to the benefit of the Church and the poor." To all of this, it is certain that the Council of Trent, in Session 24, chapter 13, concerning reforms, prohibits the union of parish churches with monasteries and colleges: "Parish churches should not be united with any monasteries, or with abbeys or collegiate churches."

[*Latin ed. p. 365*]

The secular conversion of a parish into a regular one, involving 365 days, is not permitted. However, some authors, as Barbosa comments, citing the

Translated by churchlatin.ai, a product of Boyne Archives

aforementioned chapter, make an exception for such unions: those that are made for the foundation, increase, or preservation of colleges and other institutions for the defense and propagation of the Catholic faith and the cultivation of the arts. And in support of this view, the resolution of the Sacred Congregation in Krakow, dated December 5, 1739, is cited. Nevertheless, the Ordinary also raised an objection, stating that the nature of a secular benefice is already established by law; and he did not consider it appropriate that such a dispensation and derogation be granted to the detriment of future vocations, while he, as the guardian and defender of the rights of the secular clergy, still exists.

FROM WHAT IS SEEN, IT APPEARS TO BE DONE IN FAVOR OF THE CARMELITES. However, it is certain that such conversions and translations of parishes have not always been permitted, whenever just causes are present, and the Apostolic approval is obtained. This can be easily understood from the manner in which the unions of parishes with monasteries are perfected, whether only in temporal matters, or with full rights, as Engel teaches, in title "De cap. Monach," no. 10: "A union concerning temporal matters is considered to have been made when the tithes and other revenues of the parish are assigned to the monastery, but the right to appoint the rector of the benefice belongs to the Bishop, with only the presentation of the monastery being reserved. Full rights, or incorporated parish, are said to exist when, in addition to the right to receive temporal revenues, the administration of spiritual matters, namely, the care of souls, has been transferred to the monastery, and in such a parish, the principal rector is considered to be the Abbot of the monastery." It is certain that such a manner of uniting parishes also includes secular parishes. For, even setting aside what is generally said about these parishes, it is certain that such conversions can be made according to current law. Bouix, op. cit., cap. 4, prop. 3: "It is certainly true, according to current common law..."

[*Latin ed. p. 366*]

366 From the Sacred Congregation of Bishops and Regulars, it cannot be conceded that secular parishes be transferred to regular canons without a pontifical dispensation. This has become certain through numerous declarations of the Sacred Congregation, confirmed by the authority of the Apostolic See, among which are cited two that are referenced by Garcia in *de benefic. par.*, book 7, chapter 10, number 30. And all of this is confirmed by the authority of Benedict XIV in his Constitution *Quod inscrutabili*, dated July 9, 1745; in which it is stated that, concerning the doubt: "Whether regular canons are capable of obtaining and retaining secular parish churches without an Apostolic indult," it has often been answered: "That they cannot be promoted to secular parishes without an Apostolic indult." Thus responded the Congregation of the Council in the year 1581, and its response was approved by Gregory XIII. Furthermore,

Translated by churchlatin.ai, a product of Boyne Archives

as long as the Ordinary does not wish to place private interests before the public good, there does not seem to be an incapacity in religious men to govern secular parishes, provided that this is not incompatible with their state; Suarez, *de Rei.*, volume 41, 3, chapter 9. I maintain, first of all, that a religious man, by virtue of his profession, is not incapable of holding a benefice, even one that involves the care of souls. And the same author, cited above, observes that, in canonical jurisprudence, religious men are generally not considered incapable of holding secular benefices; which is transmitted as a permission contemplated by the sacred canons. Regarding the principle or axiom: "Regular benefices are to be conferred upon regular canons, secular benefices upon secular clergy," it must be said that this applies only to simple benefices, as Engel states in title 37, book 3, Decree number 5. "Concerning these benefices, this rule does not apply equally. For, first, if benefices have the care of the 'external forum,' it is manifest that regular canons are capable of holding them, and a religious man can even be elected as a bishop, even if the church is secular, as is expressed in Clementine I, concerning Elections. But if benefices have only the care of the 'internal forum,' as is the opinion of the Doctors, religious men are..."

[*Latin ed. p. 367*]

"Regular parishes can, by general law, be capable of receiving secular benefices, and thus, for the sake of the care of souls and the spiritual benefit of the people, there is an exception to the rule that secular benefices should only be conferred upon secular clergy."

"From the earliest times of the Church, it has been considered unsuitable for non-religious regular clergy to receive benefices involving the care of souls. Thus, Pope Siricius wrote to Imerius of Tarragona: 'Monks also, whom the gravity of their morals, their life, and the institution of their faith commend, should be associated with the duties of the clergy, and we desire and will that this be so.'"

"The same was established by St. Gregory in the Roman Council in the year 592, by Boniface IV in the year 610, and by the Council of Nîmes under Urban VIII. Also, the Council of Trent, Session 25, Chapter 11, concerning the reform of monasteries, states: 'In monasteries or houses of men or women, where the care of souls of the people is entrusted to secular persons, besides those who belong to the family of those monasteries or places, both regular and secular persons exercising such care shall be immediately subject to the jurisdiction, visitation, and correction of the Bishop in whose diocese they are located. And no one shall be appointed there who can be removed at the will of another, unless with the consent of the Bishop, or after a prior examination by him or his Vicar, who shall admit and regulate the practice of conferring regular benefices upon parish churches.'"

"Finally, Pope Pius VI, in his Dogmatic Bull *Auctorem Fidei*, condemned the Jansenist opinion, proclaimed in the Synod of Pistoia, which

Translated by churchlatin.ai, a product of Boyne Archives

stated: 'The first rule, which establishes that the regular state cannot, by its very nature, be combined with the care of souls, and with the duties of pastoral life.'"

"Finally, it has been observed that if the Holy See has considered sufficient reasons presented by the Carmelites, so that they may obtain what they request, the authority of the Bishop..."

[*Latin ed. p. 368*]

368. The dispute, however, between the Most Holy Order of Bishops and Regular Canons remains a tangled and obscure matter. For Benedict XIV, in Constitution 109, *Firmandis*, concerning the jurisdiction of Bishops with regard to parish churches of Regular Canons, and to secular persons exercising pastoral care within them, §19 states: "In all the aforementioned cases of exceptions, we always and without fail wish to preserve the right of those Bishops, if any there are, who are accustomed to visit the aforementioned parish churches and their Rectors, namely, those which are annexed to monasteries or houses [belonging to them], in which the Superiors General of the Orders have their principal ordinary seat, or which have been designated by the Constitutions of their Orders or by long-standing custom, as opposed to those which have been chosen by these same Superiors for some other ordinary purpose, and which, nevertheless, during the Bishop's visitation, are nonetheless subject to his jurisdiction and correction." With these considerations presented, it was deemed appropriate by the Most Holy Fathers to resolve the following doubt: Whether, and how, the administration of the parish of Saint Stephen should be granted to the Fathers of the Carmelite Order from the monastery of the village A, in the city C, in this case.

RESOLUTION. The Sacred and Most Reverend Congregation, on the 2nd of June, 1876, having considered the case brought before them, judged it fitting to respond: Affirmatively, according to the following terms: that the parish be administered by the Carmelites until the church of Saint Stephen is restored, and that the goods of the parish remain at the disposal of the Ordinary, with the understanding that this is agreed upon with the Most Reverend [Ordinary].

THEREFORE, IT FOLLOWS: I. That Regular Canons, with a prior Apostolic indult, and with just reasons present, can obtain secular benefices involving the care of souls.

[*Latin ed. p. 369*]

369 From the Index Sacred Congregation — Decree XI. It is indeed established that, from the earliest times of the Church, it has been permitted for parish churches to be obtained by Regular clergy; who, by the gravity of their morals (as Pope Siricius decreed), and by the institute of their life and faith, are recommended above others. XI. Therefore, the axiom

Translated by churchlatin.ai, a product of Boyne Archives

"Regular benefices are to be conferred upon Regulars, secular benefices upon Seculars" should be understood to refer only to simple benefices. IV. Furthermore, from canonical jurisprudence, it is certain that Regulars, as they are capable of holding benefices that involve the care of the external forum, because they can be raised to the episcopate; are therefore capable of holding benefices that only involve the care of the internal forum, such as parish churches. V. To this, it must be added that various Councils, and especially the Council of Trent, admit and regulate the practice of conferring parish churches upon Regular clergy; and that Pope Pius VI condemned the opposing opinion as false and pernicious. VI. Unions of secular benefices with monasteries can be made in two ways: either concerning temporal matters; namely, when the tithes and revenues of the parish, with the right of presenting the Rector, are granted to the monastery, leaving to the Bishop the right of institution; or fully, in which case, besides the temporal matters, the care of souls is transferred to the monastery, so that the Abbot of the monastery is considered to be the principal rector. FROM THE DECREE OF THE SACRED CONGREGATION OF THE INDEX. On Tuesday, June 12, 1876. The Sacred Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Pope Pius IX and the Holy See, by the Dogmatic Bull *Auctorem Fidei*, Acts, volume IX, page CUI, 24.

[*Latin ed. p. 370*]

370 From the Index of Prohibited Books, issued by the Holy Office, concerning books of false doctrine, and their condemnation, prohibition, expurgation, or permission throughout the Christian Republic, held in the Apostolic Palace at the Vatican on June 12, 1876, the following works are condemned and prohibited, and it is ordered that they be referred to the Index of Prohibited Books:

* *La Régénération du monde.* A pamphlet dedicated to the twelve tribes of Israel, by Joseph de Félicité. Courtrai, 1860.

* *La Résurrection dans le Système de la Régénération du monde.* A pamphlet dedicated to the twelve tribes of Israel, by Joseph de Félicité. Brussels, 1869.

* *A Egreja e o Estado,* by Joaquim Saldanha Marinho. In Latin: *Ecclesia et Status,* by Joachimo Saldanha Marinho. Rio de Janeiro, 1874-1875.

* *Arnaldo da Brescia e la Rivoluzione Romana del XII secolo,* a study by Giovanni de Castro. Livorno, published by Francesco Vigo, 1875.

* *Dio, l'Universo, e la Fratellanza di tutti gli Esseri nella Creazione,* by S. P. Zecchini. Turin, printed by the Typographic-Publishing Union, 1875.

* *Per una Protologia secondo i progressi e i bisogni delle scienze naturali a compimento del sistema filosofico di Vincenzo Gioberti,* notes by G. B. Garrione. Turin, Camilla and Bertolero printing house, 1876. The author

Translated by churchlatin.ai, a product of Boyne Archives

commendably submitted and disapproved of this work.

* *La Semaine ou le 3 Commandement de Dieu,* by Migorel, curate of Malétable. Prohibited, along with the manuscript preface and a piece of red cloth bearing the words: "God wills it, and Our Lady of La Salette." Decree of December 6, 1875.

* *Le temporalità della Chiesa e la questione romana,* by Canon Mario Ayala Rosso. Castrogiovanni, Pagano printing house, 1874. Decree of the Sacred Office, November 17, 1875.

[*Latin ed. p. 371*]

Decree 371: Six months in Rome during the Vatican Council, impressions of a contemporary, by Pomponio Leto. - Florence, successors to Le-Monnier, 1873. Decree of the Holy Office, March 28, 1876. Therefore, no one, of whatever rank and condition, may dare to publish, or, having published, to read or retain the aforementioned works, in any place, or in any language; but they shall be compelled to deliver them to the Ordinaries of the places, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books. These matters, having been related to the Most Holy Lord Our Pope Pius IX by me, the undersigned, S.I.C., His Holiness approved the Decree, and ordered it to be promulgated. In witness whereof, etc. Given in Rome, on the 12th of June, 1876. ANTONINUS Cardinal D E LUCA, Prefect. Fr. Hieronymus Pius Saccheri, Order of Preachers, Sacred Congregation of the Index. FROM THE APOSTOLIC PENITENTIARY: My Lord and Reverend Father, Some confessors in the venerable city humbly report that at this time a pamphlet is circulating therein, containing a program printed by the press, along with attached documents of an association, by which the faithful are urged to join a certain Society, instituted or to be instituted, so that whenever the Apostolic See is vacant, the Roman people may gather around the Supreme Pontiff.

[*Latin ed. p. 372*]

From the Apostolic Penitentiary. The society is given the name: "Società cattolica italiana per la rivendicazione dei diritti spettanti al popolo cristiano ed in ispecie al popolo romano." Those who give their name to this society must expressly declare, as stated in the form of the document, that they agree with the doctrines enunciated in the program, and they undertake, before two witnesses, to strive to spread these doctrines and to expand the society itself. Therefore, those who approach (with God's help) the Sacrament of Confession, who have been promoters of this evil society, or who have subscribed to it, as well as others who adhere to it or support it, must present to the aforementioned confessors, so that they may properly absolve them, a copy of the program and the document, and they must request a solution to the following doubts.

1. Do all those who give their name to the aforementioned society, or

Translated by churchlatin.ai, a product of Boyne Archives

who promote it, or who favor it in any way, or who adhere to it, incur the penalty of excommunication by this very act?

2. And, to the extent that the answer is affirmative, is this excommunication reserved to the Roman Pontiff?

The Sacred Penitentiary, having considered all that has been presented, and having examined the nature and purpose of this kind of society: after relating the aforementioned to the Most Holy Lord Pope Pius IX, and with the same Most Holy Lord approving, responds to the proposed doubts as follows:

To the first: Affirmative.

To the second: An excommunication of this kind, incurred in a special manner, is reserved to the Roman Pontiff.

R. Card. MONACO, for the Prefect. (Rev. Can. Palombi, Secretary of the Penitentiary).

[*Latin ed. p. 373*]

FROM THE SACRED CONGREGATION OF RITES OF VENICE. Concerning the granting and approval of the Office and Mass proper for the Feast of the Holy Image of Saint Anne among the Bretons, for the day of March 7th; the Office and Mass proper in honor of the same Saint Anne, for the day of July 26th; and also the granting and approval of a proper Votive Mass.

HISTORICAL NARRATIVE OF THE FEAST OF THE HOLY IMAGE OF SAINT ANNE. Within the boundaries of a certain parish called Pluneret, located in the Diocese of Vannes, there exists a small town named Saint Anne (le Bourg de Sainte-Anne), three leagues distant from the city of Vannes, and one league from the town of Auray. In this town, in the early centuries of the Church, there was a chapel dedicated to Saint Anne, located in a certain field called Bocenno. However, in the year 699, during a war that ravaged all of France due to the incursions of barbarians, this chapel was completely destroyed. Nevertheless, the memory of it did not fade from the minds of the faithful; rather, it remained deeply ingrained, especially because that part of the field, where the aforementioned chapel lay in ruins, could never be plowed or cultivated, despite repeated attempts by the farmers. From this fact, everyone concluded that the Mother of the Virgin held that place as sacred; and therefore, each person hoped that the chapel would be rebuilt from its ruins. And this hope was not in vain; for it pleased God to restore it to its former glory, and even greater, as follows.

1. In Armorica, also called Lesser Britain, to distinguish it from Greater Britain, there exists a Diocese which, from ancient times, has excelled among the provinces of that kingdom in the sincerity of its faith and the

Translated by churchlatin.ai, a product of Boyne Archives

integrity of its morals.

[*Latin ed. p. 374*]

374 From the Sacred Congregation of Rites, a certain colonist named Ivo, with the surname Nicolazic, from his tender years showed a special piety towards the Blessed Virgin and her Mother. Among the wondrous gifts of divine grace with which he was illuminated by God, this singular event occurred: the blessed Anne appeared to him while he was resting, having appeared to him several times during his travels. Historians report that this event occurred in a more remarkable way on July 25, 1624, the day before the feast of the blessed Anne, when, while the pious colonist was engaged in prayer in the barn, he heard a great noise, multiple voices of people, and the sound of feet trampling, as if a multitude of people and all sorts of things were converging. While he was seeking the cause of these things, a sudden light shone in the barn, and the blessed Anne appeared to him in a visible form, and commanded him to tell the parish priest that it was the will of God that the chapel, which the ancient Britons had first dedicated in that region, and which, with the passage of time, had been removed, should be rebuilt from its foundations. Although Ivo was greatly comforted by this vision, he was nevertheless afraid that, if he recounted it, he might be considered a foolish and deluded person, and for several days he hesitated to carry out the command, until he was again admonished by the blessed Anne, and he went to his parish priest, and revealed everything to him. But the priest, as if rejecting the words of a dreamer, was saddened and discouraged, and he implored the prayers of the blessed Anne, that she might show her will to everyone by some remarkable sign and confirm it. The blessed Anne granted his prayers; for on March 7, 1625, while the pious farmer was at home at night, resting from his daily labors, a certain unusual light suddenly appeared, and standing near him was the blessed Anne, who commanded him to go to the field of Bocennum, where he would certainly find the image that had been preserved in the ruined chapel. Therefore, Ivo, rising from his bed, with four witnesses accompanying him, and guided by a wondrous light, arrived at the place of the ruined chapel in the field of Bocennum, where she stood, and pointed to the ground.

[*Latin ed. p. 375*]

The Office and Mass of the Manifestation of the Image of Blessed Anne: Having bowed, as if for some sign, she immediately vanished. There, the earth began to open. And scarcely having taken one or two steps, the Image of Blessed Anne, worn by age, was found. Because of this wondrous event, his mind, determined to build a chapel, applied itself to the task. However, he could not achieve this with the desired speed. Indeed, the Bishop of Vannes subjected him to a rigorous and lengthy examination; and he only conceded to his desires when no further reason for doubt about the truth of

Translated by churchlatin.ai, a product of Boyne Archives

the matter remained. During this time, that parish priest, who had so often harshly rejected John, and had so stubbornly condemned his account, was severely ill, and did not recover until, contrite for his actions, he humbly begged for forgiveness and help from Blessed Anne. Finally, the chapel was built, and it immediately became famous for the multitude of pilgrims from all places, and for the miracles wrought by God. Thus, such a sanctuary is cherished by the faithful with piety and frequent visits, so that it may be considered a kind of sacred fortress and refuge, in which they may find refuge, solace, strength, protection, and fortitude. There, the faithful people of Britain are accustomed to seek help, assistance, and all benefits from God through the intercession of Anne. Nevertheless, something was lacking to fully satisfy the pious desires and fervent devotion of those faithful towards Blessed Anne. Therefore, the Britons petitioned the Holy Roman See. Firstly, that they might be able to celebrate the feast of the Manifestation of the Holy Image of Blessed Anne on March 7th, with the proper Office and Mass; secondly, that on July 26th, when the feast of the same Saint Anne is observed throughout the Church, something more distinct and special might be permitted, in reason of the special devotion of those people; that is, the proper Office and Mass. They also petitioned for a proper votive Mass; a petition which is joined with the second.

[*Latin ed. p. 376*]

From the Sacred Congregation of Sacred Rites, 376, concerning the DEFENSE of Advocates: To more easily accomplish the matter entrusted to him, so that he might obtain the fulfillment of the vows and petitions of the Britons, this order was given to him to follow. Therefore, he spoke of the historical fact of the manifestation of the Holy Image of Saint Anne; of the miracles wrought by her intercession among the Britons, granted by God; of the particular piety of that people towards the illustrious patroness; of the liberality of Princes, Kings, and especially the Roman Pontiffs, towards this sanctuary; and finally, of the strong arguments by which the prayers of the Britons were supported.

ON THE HISTORICAL TRUTH. Regarding the truth of the historical narration already presented, the Advocate drew evidence from the Bollandine Acts of the Saints, for the month of July, volume VI, on the 26th day, pages 249-52 and pages 279-87. - Antwerp, 1729. Furthermore, the authority of Father John Thomas Cirillo was added, who in his work "Matre Honorificata," chapter 85, section 12, and as related by the Bollandine Fathers in the aforementioned place, page 251, column 2, states as follows: "Various arguments prove the truth of this history: 1.° The place has been called the city or town of Saint Anne from time immemorial. 2.° A light has been frequently observed by many and diverse people above the place, which now supports the church building. 3.° The innocence and integrity of a simple man, known to all the neighbors and inhabitants, was evident. 4.° A

Translated by churchlatin.ai, a product of Boyne Archives

most pleasing sound was repeatedly heard there. 5.° A rustic, to encourage the work on the building, prodigiously offered a sum of money. 6.° It is a constant and memorable tradition that there was once a small chapel there, dedicated to the title of Saint Anne, the Mother."

The Advocate, Dominic Ferrata, presented the petitions of the Britons in a clear style, and with entirely effective arguments; in such a way that he obtained from the Holy Roman Church everything he requested. Not all of the arguments, as is customary, are recounted here, which he successfully employed, but only some, constrained by the brevity of space.

[*Latin ed. p. 377*]

The small chapel and the Mass of manifestation, according to the testimony of the venerable Anna, and which seemed like a continuous miracle, for the plow or harrow never damaged the soil as it passed through that place, so that the saying spread among the inhabitants: "Beware of the chapel's land." 7. A granary, built from the ruins of the old chapel, was consumed by a flame that came from the sky. 8. After so many delays and obstacles, such as the contradictions and opposition of men, the devotion of this place nevertheless had a happy and successful outcome; moreover, the newly built monastery, with its magnificence, is added to the most remarkable structures of the entire region. 9. When the foundation of the present church was laid, ruins and vestiges of an ancient building were discovered, namely, glass, stones, and similar things, as they were being excavated. The promoter testified that such a thing not only occurred, but also confirmed the truth, because absolutely nothing can be found that can in any way weaken or undermine this account, according to sound critical principles. Nevertheless, he gathered and arranged many other testimonies, of which we will mention only some. Spondanus, Bishop of Pamiers and Cardinal, in his *Continuatione Annalium Ecclesiasticorum*, volume 3, at the year of Christ 1655, number 3, says: "The veneration of the Holy Anna, Mother of God, was not subjected to this decree (that is, the decree of Urban VIII concerning the cult of the saints, of which he had mentioned a little earlier), because it has been most widely received and practiced in the Church and in the city from all Christian times; and this very year, a new miracle was celebrated in Brittany, in the village of Ker-Anna, in the Diocese of Vannes, where, as was divinely revealed to a pious farmer named Ivon Nicolas in March, an old sacred image of the aforementioned Blessed Anna, deeply buried in the ground, began to shine with countless and clear, and astonishing miracles, etc." It cannot be omitted what was reported by Father Arthur Martin, of the Society of Jesus, in his work *Pèlerinage à Sainte Anne d'Au-*

[*Latin ed. p. 378*]

378 From the Sacred Congregation of Sacred Rites, it is reported that Ivo Nicolasius, on May 13, 1645, while nearing death in the Carmelite

Translated by churchlatin.ai, a product of Boyne Archives

monastery, was filled with a certain heavenly joy and delight, and, as if beholding something wondrous, seemed to be transported into ecstasy, gazing upwards towards heaven. When asked what he was seeing, he said: "Behold, I see the Virgin Mary, and with her, the Blessed Anne, my mother." Indeed, his confessor, Father Renatus, desiring to transmit to posterity a new and certain argument concerning the truth of this history, took the image of Saint Anne from the church and showed it to the dying man, saying: "Brother, before you appear before the tribunal of the supreme Judge, do you wish to reaffirm once again what you have solemnly affirmed thus far?" Then, before his son, who had given his name to the Carmelite religious order, and before the entire religious community that had gathered in his room, Ivo responded: "I confirm and attest." "Is it not fitting," added the confessor, "to pass away on your last day before the image of her from whom you have received so many gifts and graces?" Ivo affirmed, and, kissing the feet of the image with great piety, peacefully fell asleep in the Lord. According to the most well-known principles, no doubt whatsoever can arise concerning any historical fact, if it is narrated by virtuous men endowed with appropriate knowledge, as is the case here. For all the men involved are most distinguished, and endowed with exceptional piety and religion. Moreover, Ivo could not have deceived everyone, because he is simple and lacks the characteristics of a deceiver. In addition, the blessed Anne gave a sign to all, visible in the discovery of her image, in order to fully convince Ivo of her presence. Therefore, such a fact must be considered certain, unless we wish to disregard the norms of sound judgment. This event, therefore, remains confirmed by a constant and perpetual tradition, by which the existence of any fact is easily demonstrated; for the passage of time destroys opinions and commentaries.

[*Latin ed. p. 379*]

Of the Office and Mass of Manifestation, Lesson I. B. Anne, 379, ON THE MIRACLES WORKED AMONG THE BRITONS THROUGH THE INTERCESSION OF BLESSED ANNE. Although Anne, the most glorious mother of the Virgin, is invoked everywhere on earth, and receives the prayers and vows of the faithful; nevertheless, God willed that she receive a singular honor in Britannia Armorica, that she be venerated there with greater devotion, and that more frequent numbers of the faithful from even distant regions be drawn to her, and that they, in turn, might obtain more abundant benefits from her. But since it would be almost impossible to recount all and each of such miracles; only certain documents will be presented, by which their truth may be clearly demonstrated. Therefore, omitting other authors, it is necessary to mention Spandanus, already cited above; who, in the same place, continues as follows: A certain ancient sacred Image of the aforementioned Blessed Anne, deeply buried in the earth, immediately

Translated by churchlatin.ai, a product of Boyne Archives

began to shine with countless and most illustrious miracles; which caused the place to become very frequented by the gathering of people; the Image being placed in a church magnificently constructed through pious alms, near the town of Aureum, by the authority of Sebastian Rosmaderi, Bishop of Venetensis, the Ordinary of the place, who, having confirmed that miracles were habitually and most certainly wrought there, permitted them to be publicly confirmed and promulgated by Brother Hugh of St. Francis, a Carmelite Reformate of the Province of Armorica. At the command of the Ordinaries, a critical examination regarding the truth of such miracles was instituted; the outcome of which is expressed by the Bollandists as follows: Furthermore, all these benefits have been confirmed by so many and such testimonies, that even the most hypercritical should be convinced of their truth, especially since the Most Reverend Fathers Carmelites can there show to the unbelieving longer accounts and an authentic process.

[*Latin ed. p. 380*]

380 From the Sacred Congregation of Sacred Rites, concerning the ancient and constant devotion of the Britons towards St. Anne. As soon as St. Anne appeared to Yves of Brittany, and manifested her image, she seemed to desire a special cult and piety from the Britons, and immediately, whatever was sweetest and most fervent of affections was stirred within their hearts. The image of her inspired the love of all, and was so dear and venerable to all, that a copy of it, whether depicted in linen, printed on paper, cast in bronze, or sculpted in marble or wood, became the principal ornament of homes, and a unique source of comfort and refuge for the inhabitants, both in the palaces of nobles and in the humble dwellings of the poor. This is undoubtedly evident, whether one observes it in the grand halls or in the poor dwellings. But as piety and devotion towards the Mother of God increased more and more, and the first church seemed too small, the erection of a new and magnificent church was decreed in the year 1866; and within a space of six years, the most spacious building arose. From this, it is clear how fruitful and effective was the devotion of the Britons; for they did not spare any expense or labor, so that the church of St. Anne might shine with great splendor and beauty. CONCERNING THE FAVOR AND GIFTS OF KINGS AND ILLUSTRIOUS PERSONS, AS WELL AS THE GRATITUDE AND CONCESSIONS OF THE ROMAN PONTIFFS, AND ESPECIALLY OF POPE PIUS IX. Scarcely had St. Anne made the Britons aware through heavenly apparitions and miracles that it was the will of God that honor and worship be offered to her in that region, and precisely near the place called Auray, when not only the people, but even the kings and nobles of Gaul considered nothing more pleasing and delightful than to offer, in turn, proofs of their veneration and piety towards the same St.

Translated by churchlatin.ai, a product of Boyne Archives

Anne.

[*Latin ed. p. 381*]

Of the Office and Mass of Commemoration of the Image of Blessed Anne. 381. Many Popes have shown favor and granted indulgences in honor of Blessed Anne, silencing those who have spoken against her. It is necessary to speak of what Pope Pius IX did. Indeed, at the urgent request of the Bishop of Vannes, on May 22, 1868, he issued a Brief by which it was permitted to place a crown upon the image of the Virgin Mary, and also upon the image of Saint Anne. Furthermore, beyond the brevity of this account, it is impossible to overlook the argument of pontifical benevolence by which the Sanctuary of Saint Anne was raised to the rank of a Minor Basilica.

ON THE APPROPRIATENESS OF GRANTING THE PETITIONS OF THE BRITONS. Truly, with regard to the first petition, all the conditions are present which are usually required by this Most Illustrious Order, so that the granting of a proper Office and Mass may be justified, and this can be demonstrated with numerous and compelling arguments. Firstly, according to the doctrine transmitted by the highest authority of our Order, in Book IV, Part II, Chapter VII, paragraph 1, heavenly apparitions provide grounds for celebrating feasts and for obtaining the granting of an Office and Mass. Indeed, on the octave of May, the feast is celebrated in commemoration of the apparition of Saint Michael the Archangel in Mount Gargano; likewise, in commemoration of the apparition of the Blessed Virgin Mary to Blessed Simon Stock, to whom the scapular was shown, so that the sacred Order of Carmelites might be recognized as clothed in this heavenly garment and protected from the evils that threaten, a feast with an Office and Mass was granted (Benedict XIV, Book 4, page 2, Chapter 9, paragraph 10). Again, a proper Office is recited in the City on the octave of July 17 by the Regular Clerics of the Congregation of Matris Dei, by Indult of the Holy See of June 13, 1679, in commemoration of the apparition of the Image of Saint Mary in the Portico. Finally, to avoid passing over in silence other concessions of this kind, which are well known, in commemoration of the apparition of Saint Mary...

[*Latin ed. p. 382*]

382 From the Sacred Congregation of Rites, a proper office has been granted to the feast of Saint James the Greater to the Spanish (Benedict XIV, book 4, part 2, chapter 8, number 2, and chapter 9, number 17). Indeed, it is most clearly evident that the Blessed Virgin Anne appeared to John Nicolas of Ivon, as we discussed in the first chapter. Furthermore, as the same Pontiff states in book 4, part 2, chapter 7, number 1, the discovery of sacred relics provides another reason for granting an office in the place where the discovery occurred. Indeed, although the Image of Saint Anne, found in the field of Bocenno, may not strictly be considered among the sacred

Translated by churchlatin.ai, a product of Boyne Archives

relics, no one should doubt that, due to its great antiquity, the entirely special and miraculous manner in which it was discovered, and the great veneration of the faithful, it should be held as a most sacred and beloved memorial. Moreover, another reason for granting an office and a Mass is derived from the notable benefits granted by God through the intercession of a particular Saint (Benedict XIV, book 4, part 2, chapter 7, number 1). Truly, Pope Pius VI granted to the Diocese of Viterbo a proper office and Mass in commemoration of the Benefits of the Image of the Blessed Virgin at the Oak, and Pope Pius VII graciously extended this same favor to the clergy of the City of Montifalcisco and Corneto, and to the same Diocese. However, the principal reason and justification for these concessions is the pious devotion of the people. In the year 1850, the Order of the Blessed Virgin of Mercy requested from the Holy See a special feast day on September 24th, in memory of the apparition of the Blessed Virgin Mary, which was said to have occurred to Saint Peter Nolasco. From the records of the Sacred Congregation, it does not appear that this request was extensively debated, but in response to perhaps newly presented petitions, Benedict XIV granted an office to be celebrated on the Sunday within the octave of the Blessed Virgin of Mercy, and added this clause, pending, however, the approval of the alleged apparition. Finally, on May 30, 1753, another example is added.

[*Latin ed. p. 383*]

Regarding the Office and Mass of Commemoration of the Blessed Anne, on the 383rd day after the Feast of Anne, which illuminates and, indeed, completely proves and demonstrates our thesis. On May 29, 1856, the proper Offices for the Diocese of Avignon were approved by the Holy Sacred Congregation, among which were the Office of the Finding of the Body of Saint Anne, for the second day after the Sunday in Albis, and another Office for the Translation of the body of the same Saint Anne, for the day of May 4th. In these two Offices, both the hymns, the prayers, the readings for the Nocturn, and the Homilies are entirely proper. Finally, are the petitions of the prelates, which give this concession its title (Benedict XIV, *loc. cit.*, chapter 6, n. 2) sought? They are presented to the Holy Sacred Congregation of Bishops and Clergy of Vannes, with the most fervent prayers of all the faithful attached to them. Therefore, all the legitimate titles, upon which such concessions are usually based, concur to strengthen and commend this petition. Wherefore, if even one of them has often been deemed sufficient to impart grace, all the more reason do we hope for it, who defend a cause supported by all these titles. Furthermore, it will be of the greatest benefit, as I hope, from the Holy Sacred Congregation, which has always shown itself most generous in these matters, because here we are dealing with a most celebrated Sanctuary, to which no other can be compared, whether in antiquity

Translated by churchlatin.ai, a product of Boyne Archives

and dignity, or in religious devotion and the glory of miracles, or in the frequency of the people and the fame of pilgrims. Indeed, the Holy Sacred Congregation has often granted such favors to more celebrated Sanctuaries. This concerns the first part of the petition; now, something about the second, namely, the proper Office and Mass for July 26th. The reasons which demonstrate the greatest suitability of this petition are derived, above all, from those which have already been explained to you. Indeed, it has, I believe, been clearly demonstrated that the region of Britain chose the Blessed Anne.

[*Latin ed. p. 384*]

384. From the Sacred Congregation of Rites, it is understood that the Britons have, as if by their own right, and the Britons themselves, as a people pleasing and acceptable to them, have demonstrated through the number and magnitude of innumerable benefits, their devotion. Therefore, it is most fitting, both on the part of Blessed Anne and on the part of that most faithful people, that on July 26th, a special, more distinguished, and more honorable Office be celebrated in honor of Blessed Anne among the Britons, during the feast. Indeed, considering these reasons of equity, the Holy See has often, when some Servant of God has been closely and intimately connected with a Religious Congregation, a City, a Diocese, and even a Kingdom, not hesitated to grant a special Mass, distinct from that which the universal Church uses on the same day. Thus, the Franciscan family, as is well known from many examples, recites the Office of Saint Francis, Saint Anthony, Saint Bonaventure, and other Saints, distinct from that which is found in the common Breviary. For the same reasons, a few years ago, the Irish obtained a special and distinct Office for Saint Patrick, who justly and deservedly was called the apostle of that region, due to the very great labors he expended there and the abundant fruits that resulted from them. Similarly, the Archdiocese of Valentia, on September 22nd, by the benevolence of the Holy See, does not recite what is common to the entire Church, but a special and particular Office for Saint Thomas of Villanova, who, while he lived, governed the archdiocese for eleven years, so diligently fulfilling the duties of a most holy and vigilant pastor. Therefore, if in all these cases, the special piety of the people has been considered so important that the Holy See has graciously granted the requested favors to strengthen it, I hope that even the prayers of the Britons will receive a favorable response today. Even more so, because here we are dealing with the illustrious patroness of the entire province, a circumstance which is very often taken into consideration by this Holy See.

[*Latin ed. p. 385*]

Regarding the Office and Mass of Manifestation, in the case of Saint Anne, the Sacred Congregation has decreed that it alone is sufficient for

Translated by churchlatin.ai, a product of Boyne Archives

granting the proper Office and Mass. Furthermore, the advocate stated (and here we are speaking of both parts of the petition) that, when considering any indulgence, it is most important to consider the qualities and merits of the petitioner, and also the increase in divine worship that will result therefrom. But I will say nothing of the praises and merits of the Eritreans; I will simply say that it is more beautiful and fitting for them to die rather than to depart even a little from the faith of the Fathers or from the See of Peter. After these points were presented by the Advocate, the Sacred Congregation of Rites, in a full assembly, on May 29, 1876, after deliberation, decided to respond: For the granting of the indulgence, and to the Most Eminent Pope, together with the Promoter of the Faith, according to the amendments proposed by the Most Eminent Cardinals: DECREE. WHEREBY AN INDULGENCE OF 300 DAYS IS GRANTED TO THE FAITHFUL OF THE ARCHDIOCESE OF NAPLES WHO RECITE THE LITANIES OF THE MOST HOLY NAME OF JESUS, WHICH ARE PRESENTED HERE. NAPLES. — In addition to those litanies of the Most Holy Name of Jesus, which the Sacred Congregation of Rites decreed could be approved for the prayers of certain Bishops and Princes, especially in Germany, on April 14, 1646, and which had pleased the Supreme Pontiff, with the passage of time, other litanies of the same Most Holy Name of Jesus have appeared in other parts of the world, quite different from the first. Their use has become so widespread and propagated that it cannot be removed without causing offense and scandal to the faithful. 1 These amendments refer only to the drafts of the Offices and Masses presented for approval; regarding which it was decided that the Most Eminent ones should make some changes, Acts, vol. IX, fol. CUI. 25.

[*Latin ed. p. 386*]

From the Sacred Congregation of Sacred Rites, 386: To the Most Holy Lord, Our Pope Pius IX, the Most Reverend Prelates of many foreign nations, some of whom are worthy of the dignity of Cardinal, have frankly explained, on the occasion of the solemn canonization taking place in Rome. And since these Prelates did not lack monuments from which it could be deduced that the Supreme Roman Pontiffs had at times approved litanies different from the Lauretan and from those of the Roman Breviary; and since it has never been granted to those reciting the Litanies of the Most Holy Name of Jesus to receive the Indulgences which are announced; in order that the faithful may not be misled, they humbly implored the same Most Holy Lord to deign to provide suitably for this very serious matter through paternal benevolence, and to decide among the various Litanies of the Most Holy Name of Jesus which alone may be retained, and to enrich those with sacred Indulgences. Furthermore, His Holiness, having considered the circumstances presented, and at the urgent request of the Most Eminent and Reverend Lord Cardinal Xisto Riario Sforza, Archbishop of

Translated by churchlatin.ai, a product of Boyne Archives

Naples, and according to the report of the Secretary of the Sacred Congregation of Sacred Rites below, granted that both men and women of the Archdiocese of Naples who devoutly recite the following Litanies of the Most Holy Name of Jesus, and no others different from them, which have been completely abolished by supreme authority, may gain an Indulgence of three hundred days, according to the usual form of the Church. Notwithstanding anything to the contrary. March 23, 1876. C. Card. PATRIZI, Bishop of Ostia and Velletri, Prefect of the Third Class of the Sacred Congregation. S. Placidus Ralli, Secretary of the Sacred Congregation.

[*Latin ed. p. 387*]

Of the Litanies of the Most Holy Name of Jesus.
Kyrie eleison (Abbeydorney).
Christe eleison.
O Kyrie eleison.
Jesus, hear us.
Jesus, attend to us.
Father of heaven, have mercy on us.
God, have mercy on us.
Son, Redeemer of the world, have mercy on us.
God, have mercy on us.
Holy Spirit, have mercy on us.
Holy Trinity, one God, have mercy on us.
Jesus, Son of the living God, have mercy on us.
Jesus, splendor of the Father, have mercy on us.
Jesus, brightness of the eternal light, have mercy on us.
Jesus, King of glory, have mercy on us.
Jesus, sun of justice, have mercy on us.
Jesus, Son of the Virgin Mary, have mercy on us.
Jesus, amiable, have mercy on us.
Jesus, admirable, have mercy on us.
Jesus, God strong, have mercy on us.
Jesus, Father of the future age, have mercy on us.
Jesus, Angel of the great counsel, have mercy on us.
Jesus, most powerful, have mercy on us.
Jesus, most patient, have mercy on us.
Jesus, most obedient, have mercy on us.
Jesus, meek and humble of heart, have mercy on us.
Jesus, lover of chastity, have mercy on us.
Jesus, our lover, have mercy on us.

Translated by churchlatin.ai, a product of Boyne Archives

Jesus, God of peace, have mercy on us.
Jesus, author of life, have mercy on us.
Jesus, example of virtues, have mercy on us.
Jesus, zeal of souls, have mercy on us.
Jesus, our God, have mercy on us.
Jesus, our refuge, have mercy on us.
Jesus, Father of the poor, have mercy on us.
Jesus, treasure of the faithful, have mercy on us.
Jesus, good shepherd, have mercy on us.
Jesus, true light, have mercy on us.
Jesus, eternal wisdom, have mercy on us.
Jesus, infinite goodness, have mercy on us.
Jesus, our way and our life, have mercy on us.
Jesus, joy of the angels, have mercy on us.
Jesus, King of the patriarchs, have mercy on us.
Jesus, Master of the apostles, have mercy on us.
Jesus, doctor of the evangelists, have mercy on us.
Jesus, strength of the martyrs, have mercy on us.
Jesus, light of the confessors, have mercy on us.
Jesus, purity of the virgins, have mercy on us.
Jesus, crown of all the saints, have mercy on us.
Be merciful, O Jesus.
Be merciful, hear us, Jesus.
From all evil, deliver us, O Jesus.
From all sin, deliver us, O Jesus.
From Thy wrath, deliver us, O Jesus.
From the snares of the devil, deliver us, O Jesus.
From the spirit of fornication, deliver us, O Jesus.
From everlasting death, deliver us, O Jesus.
From the neglect of Thy inspirations, deliver us, O Jesus.
Through the mystery of Thy holy Incarnation, deliver us, O Jesus.
Through Thy Nativity, deliver us, O Jesus.
Through Thy infancy, deliver us, O Jesus.
Through Thy most holy life, deliver us, O Jesus.
Through Thy labors, deliver us, O Jesus.
Through Thy death and burial, deliver us, O Jesus.
Through Thy Resurrection, deliver us, O Jesus.
Through Thy Ascension, deliver us, O Jesus.

Translated by churchlatin.ai, a product of Boyne Archives

Through Thy joys, deliver us, O Jesus.
Through Thy glory, deliver us, O Jesus.
Deliver us, Jesus.

[*Latin ed. p. 388*]

"Lamb of God, who takest away the sins of the world, have mercy on us, Jesus. Lamb of God, who takest away the sins of the world, hear us, Jesus. Lamb of God, who takest away the sins of the world, have mercy on us, Jesus. Jesus, hear us. Jesus, hear us. Let us pray. O Lord Jesus Christ, who said: "Ask, and it shall be given you; seek, and you shall find; knock, and it shall be opened unto you": we beseech you, grant us, who ask you, the affection of your most divine love, that we may love you with all our heart, with all our mouth, and with all our works, and that we may never cease from praising you. May we always have both the fear and the love of your holy name, O Lord, because you never abandon those whom you establish in the firmness of your love. Through our Lord Jesus Christ. By the most holy Providence of God the Father and of our Lord Jesus Christ, Pope Pius IX, Apostolic Letter by which the University of Laval, named in the city of Quebec, is canonically erected. PIUS, BISHOP. SERVANT OF THE SERVANTS OF GOD. To the Venerable Brothers, Eleazro Alexander Taschereau, Archbishop of Quebec, and to the other Bishops of the Canadian region, and also to the beloved Pius Thomas Stephen Hamel, Rector, and to the other Professors of the Laval Catholic University in the city of Quebec. Greetings and the Apostolic Blessing. Amidst the various concerns with which we are surrounded in the proper fulfillment of the Apostolic office entrusted to us, we gladly embrace this opportunity, and we desire that those who are eager to devote themselves to the study of letters may be granted the opportunity and convenience to learn, so that errors, which are often born of ignorance of letters, and which defile the sacred doctrine of the Christian Republic, may be..."

[*Latin ed. p. 389*]

Apostolic Letters 389, if it can be done, should be destroyed; for every age teaches by experience that public universities have contributed greatly to this end. Already, venerable brothers, the Archbishop of Quebec, Peter Flavian Turgeon, and other bishops of the Canadian region, through the Sacred Congregation entrusted with propagating the Christian name, have informed us that they desire that a Catholic university be canonically erected in the city of Quebec. Now, that university, founded twenty-four years ago under the patronage of the Most Blessed Virgin, conceived without sin, by the Seminary of Quebec, with the prior approval of the Holy See and the full consent of civil authority, and recently, the venerable brother Eleazrus Alexander Taschereau, Archbishop of Quebec, and also the esteemed son, Thomas Stephen Hamel, Rector of that same university,

Translated by churchlatin.ai, a product of Boyne Archives

have presented suppliant letters to us requesting the granting of canonical institution. Through these same venerable brothers, We, having learned that the city of Quebec is to be considered, in North America, as a metropolis for the Catholic religion, because it is the mother of sixty dioceses, and moreover, easy access to it is open from all parts of the Canadian region, and having also learned that the university, whose canonical institution is requested, is adorned with vast buildings, works of art, and magnificent expenses worthy of admiration, with a copious library and various excellent museums for the support of all sciences, and is governed by the teaching and guidance of wise men, many of whom have studied in this very city of the Holy Apostles Peter and Paul, at the Gregorian Gymnasium of the Society of Jesus and at the schools of Saint Apollinaris, and that it has brought abundant fruit to the Christian and civil society, therefore...

[*Latin ed. p. 390*]

390 Having learned from the Vatican concerning the suppression of corrupt practices, and having been informed that large buildings have been constructed for this purpose under the prudent guidance of the clergy, and that greater benefits for Religion and good morals can be expected therefrom, we have judged it fitting to canonically erect, establish, and confirm the aforementioned University, in the same manner as the most distinguished Universities. Furthermore, in accordance with the will of our most venerable brothers, we desire and decree that this institution be governed by the following law: that the Prefect *pro tempore* of the aforementioned Sacred Congregation for the Propagation of the Faith shall be its Protector, which office is currently held by our beloved son, Alexander, Cardinal Priest of the Title of Saint Mary of Trastevere, and that the Archbishop of Quebec shall serve as Apostolic Chancellor, and that the University shall have the right to confer the degree of Doctor, as well as other academic degrees, in each faculty, according to the customary statutes of Universities, and that the ultimate responsibility for doctrine and discipline, that is, for faith and morals, shall rest with the Archbishop and all the Bishops of the Province of Quebec, or of Lower Canada; and in all other matters, everything shall be governed according to the judgment of the Sacred Congregation for the Propagation of the Faith, issued on February 1, 1876, and according to the laws of the University itself, the suitability and usefulness of which have been proven by long experience. Moreover, since the Queen of Great Britain, Victoria, has already, long ago, granted the University a diploma of ample approval, to which we wish to make no alteration, and has therefore granted it full freedom of teaching; therefore, we have judged, with the advice of our most venerable brothers, that the same Queen and the Federal and Provincial governments of Quebec should, for just reasons, follow suit with due praise. Finally, we earnestly urge the Bishops of Que-

Translated by churchlatin.ai, a product of Boyne Archives

bec.

[*Latin ed. p. 391*]

By these Apostolic Letters, We instruct the Province that it should take care to incorporate those Seminaries and Colleges belonging to the Lavallen University, which has so brilliantly demonstrated and continues to demonstrate testimonies of sound doctrine and the integrity of the faith; so that its students may become increasingly suitable for attending the same. Furthermore, We commend this to all the Archbishops and Bishops of the Canadian Dominion, that they strive to send young men from Buena Esperanza to the University for the purpose of study, and that they advise parents not to allow their sons, who are free to do as they please, to wander about in the city of Quebec, but rather to receive them into those hospitable institutions, uniquely established for the easier moral formation and the progress of knowledge, for which the Quebec Seminary has expended so much, and which, following the example of their elders, Professors and Directors have not ceased to support with the greatest generosity, for the benefit of the studious youth. These present Letters, and all that they contain, cannot, even if those who are interested in what is contained herein, or who claim to be so, have not been called, cited, and heard for this purpose, or for any other reason, occasion, or pretext, be declared invalid, annulled, or otherwise infringed, or in any way retracted, suspended, restricted, limited, or in any way diminished; but rather, they must always be entirely excluded from any constitutions, revocations, limitations, derogations, modifications, decrees, or declarations, whether general or special, even those made with full knowledge and power; but they must always remain excepted and perpetually valid and effective, and must have and obtain their full and complete effect; and they must be perpetually and inviolably observed by all to whom they apply and will apply in the future, and the aforementioned University, as it is erected, and its members, per-

[*Latin ed. p. 392*]

392. We decree that, in the future, all matters pertaining to this matter must be fully judged by the Vatican: and thus, in the aforementioned cases, by any ordinary judges or delegates, even by Auditors of the Apostolic Palace and also by Cardinals of the Holy Roman Church, they must be judged and defined, after having been deprived of any other power or authority to judge or interpret, as if otherwise, should anyone, knowingly or unknowingly, attempt to interfere with this, we declare it to be null and void. Therefore, to our beloved son, Alexander, Cardinal Priest of the Holy Roman Church, known as Franchini, our Prefect of the Holy Congregation for the Propagation of the Faith, and to his successors in office, we command by this Apostolic decree, and we grant and bestow upon him

Translated by churchlatin.ai, a product of Boyne Archives

all manner of power, authority, and jurisdiction; that he may take care to execute these our letters and their contents, and, acting as an effective defense for the aforementioned University and its members, he may, by the authority of our and the Apostolic See, ensure that these present letters and their contents are inviolably observed by all to whom they apply, and that the aforementioned University and its members, to whom these present letters pertain, may peacefully enjoy and possess all that has been granted to them herein, suppressing all opposition, reserving the rights that must be reserved. Notwithstanding, it is not necessary that our and our Chancery's Rule on matters of law, or the general or special constitutions and ordinances issued by our predecessors, the Popes, or the Statutes of the aforementioned University, or any Indults or Apostolic Letters of any kind and form, be mentioned or that any particular or individual expression be made of them, even if such a special, specific, and individual mention or expression, or any other particular form, would have been required for this purpose, provided that the aforementioned are not contradicted by general clauses.

[*Latin ed. p. 393*]

These letters, containing all and each of the stipulations, present and inserted herein, which shall remain valid and in full force for all future purposes, derogating from the aforementioned provisions only for this occasion, and nullifying all other contrary provisions whatsoever. We decree that, even though copies of these present documents, transcribed and signed by the hand of a public notary, and sealed with the seal of a person constituted in ecclesiastical dignity, are presented, the same full faith shall be given to them as would be given to the original documents if they were exhibited or shown. Therefore, it is forbidden to any person whatsoever to infringe this page of our erection, institution, confirmation, granting of indulgences, exhortation, mandate, derogation, and will, or to dare to contradict it with reckless audacity. If anyone should presume to attempt this, let them know that they will incur the wrath of Almighty God and of the Blessed Apostles Peter and Paul. Given at Rome, near St. Peter's, in the year of the Incarnation of Our Lord one thousand eight hundred and seventy-six, on the Kalends of May, in the thirtieth year of Our Pontificate. F. Card. ASQUINIUS. C. Gori, Subdatarius. VISITED BY THE CURIA: J. DE ¿QUILA, and the Viceroys. I. Cugnonius, Registrar in the Secretariat of Briefs.

[*Latin ed. p. 394*]

394 From the Vatican, APOSTOLIC LETTERS TO THE BISHOP OF LICCA, from PIUS PP. IX. VENERABLE BROTHER, GREETINGS AND APOSTOLIC BENEDICTIONS. We, who from the beginning of March of the year 1874 have condemned the injustice of the law published

Translated by churchlatin.ai, a product of Boyne Archives

afterwards in May, which dared to tax ecclesiastical property; and who have denounced the usurpation by secular authority of ecclesiastical goods; we are now compelled, beyond the other damages which we foretold would follow, to deplore the injury inflicted by the execution of that law upon those members of the clergy who enjoy ecclesiastical income, and the difficulty thereby created for the poor, to whom assistance would be offered through the reduction of those very incomes. Indeed, the Lord commanded those who announce the Gospel to live of the Gospel; and it is entirely just that those who work in the sanctuary should partake of what belongs to the sanctuary, and that those who serve at the altar should share in the offerings of the altar. However, for this to be properly accomplished, ecclesiastical authority is required, and in the case in question, that of the Roman Pontiff, who not only can bestow benefits, but also, as the general administrator of sacred goods, can impose burdens upon those same benefits and religious houses for the support of the poorer clergy. But when those who, by all right, possess legitimate ecclesiastical revenues are burdened with immense taxes by a secular authority, and when, furthermore, the law decrees that subsidies from ecclesiastical inheritances be allocated to the poor, while ecclesiastical goods are thus transferred at will to others, it is clear that such assistance cannot be lawfully received. However, since the distress of the clergy reduced to poverty must be considered, and since, insofar as the matter is affected by the illegitimate action of external authority, it can be made lawful by our authority; therefore, venerable brother, it is fitting that you...

[*Latin ed. p. 395*]

Apostolic Letters 395, which you have brought to this Apostolic See, to which we shall give our attention: and we do not doubt that this will also be done by your co-bishops, who are in the same situation. Therefore, considering the circumstances and the times, we grant you the power to grant to Clerics, to whom assistance is granted, permission to receive it freely and lawfully. However, so that no one may be led astray by this assistance coming from secular authority, nor may what is granted for a time become a custom and establish a kind of prescription; it will be your duty to instruct the Clerics who are assisted in this way, so that each year, or every two years, they request this permission from you, and furthermore, to inform them, and also the Government, in a more prudent manner as you deem appropriate, that this assistance is admitted, not by law, but by the benevolent concession of ecclesiastical authority. This is to be done only to avoid more serious evils, and to consider the consciences of those who already receive this assistance from the Government. But, prudently observing, if it can happen that those who are already burdened with heavy taxes, not only in the name of profitable goods, are oppressed by this additional imposition of assistance: you will certainly be able to request from the Clerics, to whom

Translated by churchlatin.ai, a product of Boyne Archives

this assistance is granted in a somewhat larger amount, a portion of the money received, to be deposited with you, so that, taking into account the individual losses incurred, it may be returned to those contributing, according to the laws of equity. Furthermore, as we are always in need of divine light and heavenly power in the ever-increasing difficulties of affairs, we earnestly implore these things for you; and we desire that the heavenly favor may be the pledge of the Apostolic Benediction, which we impart to you, venerable brother, and to your entire Diocese, as a sign of our special benevolence. Given at Rome, at Saint Peter's, on the 29th day of May, in the year 1876, in the 30th year of our pontificate. PIUS PP. IX.

[*Latin ed. p. 396*]

FROM THE HOLY CONGREGATION CONCERNING PENSIONS. March 10, 1876. Summary of the case. In the year 1859, a priest, M., sent a notice to his parish; and he took care that an annual pension of 150 florins be reserved for him from the parochial benefice, which was granted to him by Apostolic Bulls. However, a short time later, that priest laid aside his priestly garments, wrote books offensive to the Roman Pontiff and the Catholic Church, and published them through the press; and he actively assisted impious periodicals in Helvetia. Finally, it is most scandalous, he not only fell into the heresy of those who are called Old Catholics, but he also assumed the administration of a Helvetic parish, which had been entrusted to him by the secular authority; whereas, the legitimate pastor had already been unjustly removed. When these things became known to the parish priest, B., who was burdened with the pension from which the priest who had fallen into heresy had benefited, the parish priest approached the Ordinary, requesting that the heretical priest, and one offensive to the Roman Pontiff, be declared to have forfeited his right to receive the pension. The Ordinary refused, alleging that he lacked the authority, both because the priest had obtained the pension through Apostolic Bulls, and because he had been residing in Augsburg for fourteen years. Having learned of the Bishop's decision, the parish priest, B., appealed to the Holy Congregation; which, receiving the petition of the aforementioned petitioner, requested the Ordinary to express his opinion regarding the legitimacy of the petition. Besides what has been written above.

[*Latin ed. p. 397*]

Caducitatis a pensione 397, he relinquished his right to receive the annual pension, for the sum of money he had received. Therefore, the aforementioned priest could be considered an apostate, an intruder, and gravely suspected of simony. Then, the Holy Congregation [of the Council] sent a letter to the priest M., which would serve in place of three warnings, with the intention that, unless within one month he received himself into some

Translated by churchlatin.ai, a product of Boyne Archives

pious institution for the purpose of spiritual exercises, he resumed his clerical garments, made an abjuration of heresy, and retracted his errors, and abandoned the parish he had improperly taken over, proceedings would be initiated against him as a contumacious and persistent offender. But this contumacious man persisted in giving no response; therefore, on August 21, 1875, a decree was issued by the Summarium precum. Disceptatio Synoptica.

E A QUAE FACIUNT PRO SUSTINENDA PENSIONE.

In law, the deprivation of a pension is considered an odious thing; therefore, no interpretation can be overlooked that would exclude it. It appears that the priest M. could be deprived of the right to receive his annual pension, because such a pension is to be considered a reward for the labors which he endured while performing his parochial duties. And this is especially true, because Tonduti, in *De pens. Eccles.*, chapter 26, says: "Pensions, by the name of benefices, are not included in the penalties and odious things, because a pension is something separate from the very benefice itself, and does not pertain to the title of the benefice." Therefore, even if the priest M. were to be subjected to some penalty, or even the deprivation of benefices, he would nevertheless appear to be deprived of the pension which he enjoys.

E A QUAE FACIUNT PRO TOLLENDA PENSIONE.

Cardinal De Luca, in *Summa de pensionibus*, chapter 8, number 64, says: "By those crimes, the ecclesiastical pension is lost, by which result the vacation of benefices, of which, by law, it is regulated; therefore, if the crime is not suitable for the loss of benefices, much less is it suitable for the loss of a pension."

[*Latin ed. p. 398*]

898 From the Decree of the Council concerning benefices, it is stated that only those crimes which are expressly defined by law produce this effect; for example, simony, sacrilege, the seduction of a nun, the falsification of Apostolic documents, heresy, assassination, and perjury, concerning which it is stated in the law regarding benefices; but concerning other crimes, if it is not so stated. However, it has been demonstrated by valid proofs that the priest M. was a heretic; therefore, according to the doctrine related by Cardinal De Luca, he is to be deprived of the annual pension pertaining to the parochial benefice. Furthermore, the Supreme Pontiff Pius IX, in his encyclical letter of November 21, 1873, condemned as heretical the sect of those who are called "Old Catholics"; and the priest M. has fallen into this sect. Let us hear the words of the Supreme Pontiff: "Moreover, the patronage openly accepted by the Prussian and other governments

Translated by churchlatin.ai, a product of Boyne Archives

of the German Empire, for these new heretics who call themselves 'Old Catholics,' through such a misuse of the name, which would be utterly ridiculous, were it not for the numerous and grievous errors of this sect concerning the principal principles of the Catholic faith, the numerous sacrileges committed in divine matters, and in the administration of the Sacraments, the numerous and most serious scandals, and the immense ruin of the souls of Christ, redeemed by His blood, which these things express with the force of tears... Therefore, the Church, spread throughout all nations, which Christ, the Son of the Living God, has built upon the rock, against which the gates of hell shall not prevail, and with which He Himself, to whom all power has been given in heaven and on earth, said that He would be with them all days until the consummation of the age, rises up against these, even as it did in times past against the Donatists... Let the heretics perish, let them perish and become that which they are not." Likewise, there is no doubt that the priest M. is an intruder; this is established by clear arguments, since he accepted the administration of a parish in Switzerland which was delegated to him by secular authority. But from the same Encyclical, those who...

[*Latin ed. p. 399*]

Those who, by retiring from office, incur the penalty of the greater excommunication, especially that reserved to the Holy See, are thereby subject to it. There it is written: "Therefore, by the authority of our office, we solemnly reject and condemn these [laws], declaring at the same time that the oath taken by them is unlawful and plainly sacrilegious; and therefore, all those who, in Geneva or elsewhere, according to the same laws, or in a similar manner, with the consent of the people, or confirmed by civil authority, dare to enter into ecclesiastical offices, thereby incur the greater excommunication, especially that reserved to this Holy See, and other canonical penalties; and therefore, all of them must be avoided by the faithful, according to the divine precept, as if they were strangers and thieves, who do not come except to steal, to kill, and to destroy." It is certain that a priest, M., is bound by such a greater excommunication; and he may be deprived not only of the fruits of the benefice, but also of the revenues from the pension, according to the Decree on Pensions, chapter 7, paragraph 13. It is a general rule that the excommunicated are deprived of the fruits of benefices by the greater excommunication, even if the excommunication is secret, although this may not be expressly stated in the sentence, as stated by Julius Clar. in practice 55 final, question 37, paragraph 7; Covarruv. book 3 resolutions, chapter 13, paragraph 8; Paris, de resignat, book 4, question 3, paragraph 62, and book 5, question 6, paragraph 76; Genuens. in practical matters, question 266. Therefore, he must also be deprived of the revenues from pensions, according to García de benef. part 1, chapter 5, paragraph 131, and part 7, chapter 13, paragraph 114; Séraphin, decisions 1144, paragraph

Translated by churchlatin.ai, a product of Boyne Archives

2. It is, indeed, the more correct opinion that it is not necessarily required to include in the sentence of excommunication the penalty of deprivation of fruits, pensions, and other revenues, as Ricciul. defends in his book on personal law, book 4, chapter 14, paragraph 21; Scacc. de appell, question 17 limit. 2, number 9. Furthermore, in addition to what has been stated about the priest M., it must be added that he can also be considered as an apostate by the Holy Order.

[*Latin ed. p. 400*]

400. From the Sacred Council, it is declared that a cleric who, through rash conduct, passes from the clerical state to a lay condition, and who is subject to grave suspicions that he has entered into a civil marriage, ought to be deprived of his ecclesiastical pension. And for this reason also, Tonduti, chapter 75, teaches that pensions and benefices obtained through marriage are to be withheld, even though the marriage was null; Ligi de pensionibus, question 71, number 9, to which the Tolosan Senate, in Maynard, book 4, questions singular, chapter 55, number 9, adhered, for the reason that the will to withdraw from the observance of ecclesiastical chastity is also proven by the very act itself. Therefore, from the foregoing, it was deemed that the priest M. could lawfully be deprived of the annual pension pertaining to the parochial benefice. Furthermore, it was noted from the opinion of Maschat, on excommunication, book 5, title 39, that a cleric subject to excommunication is not, by the very fact of the excommunication, deprived of the fruits of a benefice previously lawfully obtained: thus Sánchez Lay, in Salmant, and others; for it is not clearly established by any law that the fruits are to be withheld, and indeed, in chapter 55 concerning appeals, the word "subtrahuntur" sufficiently indicates that the deprivation of the fruits is to be carried out by the ministry of a judge, just as the declaration of excommunication; nor does the Pope respond that the deprivation of the fruits occurs in the same way as the deprivation of the faithful from Communion, but that this is a sufficient cause for it, because the cleric deserves to be deprived of the fruits if he is deprived of Communion, and thus custom interprets this text. With these considerations made, the matter was referred to the prudence of the Most Reverend Fathers.

RESOLUTION. The Sacred Council, after due consideration, on March 4, 1876, responded as follows: The priest M. has lost the right to receive the pension.

[*Latin ed. p. 401*]

Regarding the loss of pensions, section 401:

I. Ecclesiastical pensions are lost through the same offenses for which benefices are lost, since they are governed by the same law, whether it be the pension or the benefice.

II. Not every offense necessarily entails the loss of benefices; but only

Translated by churchlatin.ai, a product of Boyne Archives

those offenses which are expressly mentioned in the law, such as simony, heresy, forgery of Apostolic documents, and other offenses specified in the law.

III. According to the Doctors' pronouncements, it is possible to deprive a person excommunicated by a major excommunication not only of the fruits of a benefice, but also of the revenues of a pension.

IV. However, a person who has incurred offenses explicitly defined by law is, by law and by fact, deprived of both the fruits and the revenues; but this deprivation must be decreed by a judicial decision.

V. It has not been declared that the loss of revenues is incurred in the same way as the loss of communion with the faithful; but rather, it has been declared that a major excommunication provides a sufficient reason for the loss of those revenues.

VI. In the matter at hand, there is no doubt that the priest was an intruder because he received the parish from a secular authority; that those who call themselves "Old Catholics" are heretics; and that he has apostatized from the sacred Order; and therefore, he has fallen under the law regarding pensions for each of these reasons.

MA-SGHAT, book V, title 39, paragraph 30, indicates what should be done with a cleric who, while under a major excommunication, has received revenues from a benefice. However, after the sentence, the cleric is obligated to restore the fruits received during the time of the excommunication, until he is absolved; if, however, he is poor, he may apply them to himself, since these fruits are to be distributed to the poor or to the Church. Acta, volume IX, page CIV, 26.

[*Latin ed. p. 402*]

From the Sacred Congregation of Rites, April 1, 1876. Summary of the case. The Bishop presented the following to the Congregation: In his Cathedral Church, the following customs have prevailed:

I. Both Canons and Clerks of the Divine Office "celebrate Mass at certain times."

II. Because there is a small chapel in the sacristy, those "who suffer from poor health" celebrate Mass there, while the choral service is being performed.

III. "From time immemorial, the Canons and Clerks, after completing the morning chapter for Matins and the afternoon chapter for Vespers, hear the confessions of the faithful throughout the entire time of the Divine Office; indeed, some of them, even during the times of Matins and Vespers, with the permission of the Ordinary, are present to hear confessions."

However, it should be noted that the number of Clerks and Canons has increased to approximately sixty. Furthermore, the number of Masses to be celebrated each year, according to the will of the testators, is 10,500, and the

Translated by churchlatin.ai, a product of Boyne Archives

majority of these are assigned to the Cathedral Church, or to specific altars, and are divided among the Canons and Clerks, of whom at least twenty celebrate constantly in the Church.

In addition to this large number of Masses, there are also additional Masses. It should also be noted that the choir is prolonged daily from the hour of *octava* until half-past ten, and until noon when the Bishop celebrates a Pontifical Mass.

Given these circumstances, it is impossible to complete the choral service before the celebration of the Masses, because of the number of those celebrating.

[*Latin ed. p. 403*]

The vestments for the 403 distributions were lacking. After the choir, it was impossible to avoid a serious inconvenience, because near midday, everyone is called away to other duties. Concerning the confessions, it must be known that the habitual care of souls belongs to the Chapter and the Mansionaries; and each year, from the Chapter, a parish priest, and from the Mansionaries, two chaplains are chosen for the actual care of souls. It must also be known that the people are accustomed to go to the Cathedral for confessions, knowing that they will find confessors there. Therefore, Bishop A. insisted that: 1.° The Canons and Mansionaries be permitted to celebrate Mass during the Divine Office. 2.° Also, to hear confessions. 3.° Regarding the past, the fruits obtained from those who were accustomed to celebrate Mass within the choir and to exercise the office of confessors should be excused. In addition, the Holy Congregation having written to him, "To the same Bishop, who, together with the Chapter, should prepare a norm or order by which the Chapter members may celebrate Mass and hear confessions during the Divine Offices," he proposed the following norm: 1.° From the beginning of the choir and thereafter, the Canons and Mansionaries will celebrate Mass according to the order of the stalls; but in such a way that never more than one-third of the present members shall leave. 2.° From the Chapter, for the Office of Lauds and from the Chapter, for the Office of Vespers, they may hear confessions, provided that as many Chapter members remain as are necessary, not only for necessity but also for the decorum of the church. 3.° The singers will not be permitted to celebrate Mass or to attend confessions, as long as their service is required in the choir. 4.° During the seasons of Lent, Jubilee, and other times designated by the Ordinary, certain of the Canons and Mansionaries, chosen from the Chapter, will attend to receiving confessions from the beginning of the choir. 5.° For those recovering from illness or with impaired health, in Aversa.

[*Latin ed. p. 404*]

404. While the Sacred Council is in session, it will be permissible to

Translated by churchlatin.ai, a product of Boyne Archives

celebrate Mass within the internal oratory of the Sacristy and to receive daily distributions, except on Sundays or feast days. A concise summary. WHAT HAS BEEN PRESENTED THAT CONTRADICTS THE RULE PROPOSED BY THE ORDINARY. The well-known axiom in canon law was presented, that distributions cannot be received except by those who are actually present in the choir: which is found in the decree of Boniface VIII, *Consuetudines*, in chapter one, concerning Clerics who do not reside, number 6, to which the confirmation of the Council of Trent was added in chapter 12, session 24, concerning reforms. In general. However, those who celebrate Mass during choral service should be considered in light of the decree which the Sacred Council's Congregation issued in the year 1573, by order of the Pope, and which is found in book 1 of the Decrees, page 51, paragraph 77, with these words: "Because sometimes in Cathedrals and Collegiate Churches, there are some Canons, or other officials who hold chaplaincies in them, or in title, or as stipends, the question arises whether, at the time when they celebrate in these chaplaincies, they are obliged to receive distributions, even if they are absent from the choir: and what about those Canons who celebrate in the same church for the sake of their devotion, whether, when they are absent from the choir for this reason, they can receive distributions, and if not, what if it is ordered by the superiors of the church that they celebrate at that time? The Most Holy Pope, also according to the opinion of the Congregation of the Council, declared that they cannot, unless sometimes their superiors have ordered it, but he wished to admonish those superiors to abstain from such abuse." The Holy Congregation has never receded from this opinion; indeed, on February 23rd and November 23rd, 1771, the following question was proposed: Can the custom of Canons celebrating Mass during the hour [of choral service] be maintained?

[*Latin ed. p. 405*]

Concerning the forty-five canonical distributions: he responded, "No, unless with the legitimate permission of the superior." The same must be said of those canons who leave the choir in order to receive sacramental confessions within the same chapter church; for the privilege of not losing these distributions during the divine office, in order to exercise the office of confessor, pertains only to the Canon Penitentiary, because the Council of Trent, in Session 24, chapter S, expressly decreed that only the Penitentiary, while hearing confessions in the church, should be considered present in the choir. Therefore, the other canons who receive confessions during the choral service lose these distributions, as is stated in the Roman cause, *Servitii Chori*, December 23, 1690. Nor can a custom to the contrary be maintained, as noted by Fagnani, in *Liber Decretorum*, chapter *De Praeb.*, number 118, and by Benedict XIV, in *Institutiones*, 107, number 76, referring to the opinion of Passerini, in chapter *Consue-

Translated by churchlatin.ai, a product of Boyne Archives

tudinem, de Cler.*, non residing in 6, rule 10, number 163, where it is asked whether a contrary custom should be admitted in this matter? And it is answered: "Unless with a precise designation or the legitimate permission of the superior, a custom cannot be introduced so that canons interested in the choir, for the sake of celebrating private Masses, may profit from these distributions; for the reason for encouraging canons to frequently celebrate Mass, with prejudice to the obligation to the choir, is neither reasonable, nor is it a new or special cause, but a general and foreseen one by the law, and disapproved: because only three other such exceptions have been approved; and the same must be said of those absent for the purpose of hearing confessions."

WHAT WERE PROPOSED TO SUSTAIN THE RULE. Contrary to this, first, the decree of Boniface VIII, mentioned above, admits three causes that excuse absence from the choir: 1st, a just and reasonable infirmity; 2nd, a bodily necessity; 3rd, evident benefit to the Church, and this last can even seem to extend to the benefit of the people, with this clause often added.

[*Latin ed. p. 406*]

406. From the Sacred Congregation of Rites, it has been added, as in the case of Saint Miniatis on February 8, 1817, and in Tranen on December 20, 1862. In the Cathedral Church, a large number of clergy must be served. At least twenty must celebrate daily in the Cathedral; if all wished to complete their celebrations before the beginning of the choir, neither vestments would suffice nor would there be enough ministers. It is most burdensome to compel some to celebrate after the choir, and it is difficult to find the faithful who would attend Mass at that hour. Hence, the necessity of celebrating during the choral service. Indeed, the Sacred Congregation has not been opposed to this practice, provided that the legitimate permission of the Superior is present and it is for the benefit of the people, as stated in the aforementioned Decree of November 23, 1771, and also in the cases of Saint Miniatis on February 8, 1817, and Tranen on December 20, 1862. Regarding the hearing of confessions during the Divine Office, it must be kept foremost in mind that the care of souls habitually remains with the Chapter, and that this duty is exercised by one Canon and two Monsignors, chosen each year. For this reason, it can be said that all Canons enjoy parochial rights. Therefore, if they are not present with the choir to hear confessions, or to perform other duties pertaining to the care of souls, they can perform their distributions, as the same Sacred Congregation held in Milan on February 13, 1639, and in Teorten on September 19, 1643. It is also the case in the Cathedral Church that the people frequently desire to confess; therefore, it is necessary that some of the Chapter hear confessions during the choral service. With these things stated for the record, the following questions are proposed. I. In what manner, and to what extent, can the custom of celebrating Mass, both in the church and in the chapel, during

Translated by churchlatin.ai, a product of Boyne Archives

the Divine Office, be maintained in this case?

[*Latin ed. p. 407*]

Distributiones 407 I. Whether and how the custom of receiving sacramental confessions during the Divine Office can be maintained for the benefit of the distribution. And, to the extent that it is negative. II. Whether consultation with the Most Holy [Father] is required for the absolution and dispensation regarding distributions received in this case. The Holy Congregation, having considered the matter, judged it fitting to respond as follows: To I and II. The custom cannot be maintained; however, considering particular circumstances, the norm proposed by the Bishop with the consent of the Chapter may be admitted, provided that the permission of the Prefect of the Choir is added, and the Bishop must ensure that there are no Masses before or after the Choir. To II. Affirmative: provided that one Mass with singing is celebrated, with the entire Chapter present. THEREFORE, IT IS DECREED: I. The obligation to attend the Divine Office for the Chapter members is such that they may only be excused from it with the legitimate permission of their Superior, and only for grave reasons. II. The custom cannot be upheld in the opposite direction, because the reason for celebrating private Masses or hearing confessions during the Divine Office is not new and special, but general and foreseen by law, and therefore condemned; therefore, it cannot be considered a reasonable excuse for absence from the Choir. III. Only three legitimate reasons for absence are admitted by law: namely, those enumerated in the Decree of Boniface VIII. IV. Therefore, the Holy Congregation ordered the Chapter to celebrate a Mass with singing, in order to atone for the abuses of the past. V. In the case of a just and reasonable necessity, and also evident benefit to the Church and the people, the norm may be...

[*Latin ed. p. 408*]

408. From the Sacred Congregation, a decree was issued and approved concerning what is to be done in the future. It is necessary to have this done if it is impossible or excessively inconvenient for all to celebrate before or after the choir; however, it should not be said that the people are absent from the Mass or from the confessional in a very large cathedral church.

DECIMES. On the days of December 20, 1873, September 12, and December 12, 1874, and September 2, 1876. A summary of the facts. When this matter was first brought before the Sacred Congregation between the parish priest of S. and the family N., as related in volume VII, page 387 and following, it seemed that the controversy was settled before the Sacred Congregation, which on December 14, 1872, considered it appropriate to answer affirmatively to the question of whether the parish priest of S. has the right to collect tithes in this case, according to the twentieth part of the income. However, since the family N. had requested and obtained a

Translated by churchlatin.ai, a product of Boyne Archives

new hearing, the case, which was of no small importance, deserved to be presented again to the Congregation on December 20, 1873, through the customary formula of inquiry: whether one should adhere to or depart from the previous decisions. And after a vigorous defense by the family N., a decree was issued, postponing the matter, and granting the parish priest two months to present further evidence of his rights, and this should be notified to the Bishop. We do not recall any specific case that is cited in the place mentioned, to which we refer the readers. Two main points of the matter are: first, the right to collect tithes on the lands of the family N., and second, the amount of the tithe to be collected. On these matters, very different opinions have been expressed, according to the opportunities presented by the questions that arose both in law and in fact.

[*Latin ed. p. 409*]

Decimarum 409. Disputatio synoptica. ARGUMENTA FAMILIAE N. Qui pro hac familia solutionem decimarum petebat, instituibat duplices tractationes rei. Primo, de iure decimandi; et praemonens, aliae decimas esse sacramentales, aliae vero praediales: illas debere parocho Sacramenta ministranti, has ei persolvi cuius in ditione praedia sunt posita, cap. 5 de Parochis. Barbosa in collect, lib. 3, tit. 29, cap. 5; Rota in decis. 124, par. 5, t. 1, n. 4 et in decis. 344, n. 11, par. ii, Recent. Ex neutro capite, decimas competere Plebano S. Non sacramentales, quia Familia N. ab alio parocho Sacramenta percipit; non praediales, quia ius resistit parochis qui in aliena ditione decimas condicunt, Van Espen, Ius Eccles., univ. par. 2, sect. 2, tit. 2, cap. 3, n. 9, nisi immemorabilem praescriptionem ostendant. Quia eas occupasse iniuste verisimiliter praesumuntur, cum proveniant ex praediis intra alienam parochiam constitutis. Bonifacius VIII in cap. 2 de restitui, spoliat. His in iure praestitutis, totus in eo erat ut probaret, antiquam praedii subiectionem, etiam admissam, parocho adversario nihil proficere, qui a saeculis eam desiisse fatebatur. Sed eam quoque exsulare: illa enim historica monumenta unde probationes hausit Plebanus, in ipsum converti. Anniculum, cognitatorem in rem a Plebano assumptum, antiquis inventariis in eius commodum usum fuisse: et ita relationem condidisse erroribus refertam, et cum omnibus pugnare eius regionis cognitoribus peritissimis. Secundo loco, loquebatur de praedii exemptione sumptuum causa, non valorum, atque damnorum. Ac primo, innuebat nec contrarium cognitatorem negare sumptus in praedio factos, ac immanem damnum de quo vitando certat Familia N. In praedio cuius valor libellis tres mille haud.

[*Latin ed. p. 410*]

410 From the records of the Council, it appears that fourteen thousand livres were spent. Furthermore, new expenses are required each year for its cultivation, and the situation has reached the point where the interest

Translated by churchlatin.ai, a product of Boyne Archives

on the money invested in the property barely covers the expenses. Therefore, when the money invested in Agello is five times greater than the value of the property itself, and when, after calculating the income, the expenses and the interest on that money are paid, the remaining amount is not derived from the produce of the land, but from a loss to the family, it is reasonable to grant the pleas of the Pleban. He also added that works of this kind had been carried out in this property, the like of which had never been seen before or anywhere else. For a barren and rocky mountain, having been built up with embankments and the rocks reduced to dust, had been made suitable for cultivation: and therefore, a completely new property had been established in the ancient field. Furthermore, all new acquisitions should be exempt from tithes. And even if new works were not exempt from tithes, tithes should not be paid until the expenses have been covered without causing a loss. This is a matter of reason and equity. For the Popes and Authors, when they decree that expenses should not be deducted from tithes, they refer to that kind of expense which is required by nature, namely, all expenses for the protection of the property and for the collection of its fruits, *ReifTenst. lib. 3, tit. 30, n. 28*, without any deduction for seed or expenses incurred in cultivating the land, e.g., collecting the fruits, caring for animals, etc.; *Ferraris voc. Decimae art. 3, n. 10*; *Sabell. in Summa voc. Decimae n. 6*; *Tiraquel. de retract. lign. § 15, gloss, i, n. 10*; *Antonell. De iurib. cler. lib. 1, par. 5*; *Garzia De expens. et melior, cap. 1, n. 17*. Moreover, Innocent III defined the type of expenses in chapter 28 on tithes, where it is written: "Although, when things acquired or made with tithed money are sold, we believe that expenses should be deducted, and tithes should be paid on the remainder, as if a house were sold."

[*Latin ed. p. 411*]

The tenth part of 411 acres, vineyard, kiln, mill, flock, or any other merchandise, except that we do not believe that expenses incurred in collecting the fruits should be deducted from those from which the fruits are derived, even if they have been tithed, because, with the tenth preserved, the fruits are produced by those who incur those very expenses; and the same Pontiff, in chapter 26 of *Tua nobis*, gave an explanation of the law. It is safe to conclude that this is the intention of the Decretals, so that just as a tenant is obligated to pay rent to the lord without deducting expenses, so too the lord is obligated to pay tithes to the Church, free from expenses. Furthermore, in law, a tenant who has assisted in the valuation of the property is exempt from paying rent until the property has been compensated, according to *leg. Colonus* 61 ff. and *locati leg. Dominus* 55, § 1 ff. It would be contrary to equity if, between two parties sharing in the same thing, one should receive a benefit while the other suffers a loss. The Pontiffs intended that landowners should be obligated in the same way that tenants are obligated, and that large expenses should be deducted which confer a

Translated by churchlatin.ai, a product of Boyne Archives

perpetual benefit on the property. However, a perpetual exemption should be derived from the moral nature of the land, as Fagnan states in chapter 1, with the note that if a tithe is prescribed on land in a foreign parish, and new lands arise there, the tithe will not be due on those new lands. Nor should *novalia* be excluded, which the parish priest opposes, from chapter 21 of *quid per novale*, which states that nothing other than land newly brought under cultivation should be accepted under this name, of which there is no record that it has ever been cultivated; and this cannot be applied to the Family N., which has always been able to derive some fruit from the property. For *novalia* were, in ancient times, lands that had never been cultivated and which were brought under cultivation. The reason for the law is 1st, that the cultivation of land had become obsolete due to the passage of time; 2nd, that if the burden of tithes had been added to the large expenses, cultivation would have brought more detriment than benefit. Today, after the passage of many centuries, all lands are cultivated.

[*Latin ed. p. 412*]

412 From the decrees of the Holy General Council, it is the case that almost no land of any nation can become truly new [i.e., exempt from certain taxes]: indeed, even if some field remained uncultivated, it would rather enjoy the exemption for new lands through usurpation than through the will of the law. It is far easier today to break new ground than to extract anything from a weakened and exhausted soil. Therefore, the situation is the reverse due to the change of times: and the increase of cultivation and its privileges tend in a different direction. The immense burden of taxes consumes the fruits of the land, if any exist: one remedy is to undertake the greatest expenses, to create, as it were, a new estate, and to attempt new and more refined methods of cultivation. The condition of agriculture is different from that of ancient times: new lands were exempt from tithes because this was the best way to encourage better cultivation. Having fulfilled that purpose, another method must be employed, one that is far more burdensome and expensive, concerning the new works undertaken in the fields. Furthermore, the cause of the law is to be understood from the clear mind of Gregory IX in chapter 33, "De privilegiis": "For sometimes it happens that an indulgence concerning new lands brings more expense than benefit, and this is entirely suitable to the subject matter." Finally, if not the intent of the law, but its literal meaning is considered, this applies to the case where a considerable part of a property, which was previously composed entirely of rocks and stones, and was uncultivated, is now, for the first time, being cultivated. The tithe, which was previously paid to the parish priest, did not exceed twenty-four annual [tax] units, and from it, the minimum return from the property was recognized. [However,] 14,000 units were spent on cultivation, and the field yielded more diverse and abundant fruits than before: but if we calculate the value of the property,

Translated by churchlatin.ai, a product of Boyne Archives

the expenses of cultivation, and the taxes, the family [in question] has not yet made any profit. If these things are kept in mind, and conversely, it is noted that in a neighboring property, seventy [tax] units of timber were taken by the parish priest, two centuries ago, according to a protected agreement. And concerning the field that...

[*Latin ed. p. 413*]

Thirty-seven tables of tithes are collected, and according to ancient custom, twenty-four small books could have been prepared, but fifty small books of offerings are refused: it is now clear that he intends to enrich himself with foreign revenues. THE ARGUMENTS OF THE PARSON. He returned to the reasons already presented in the first dispute, in order to demonstrate: that the right of collecting tithes, which he claims, originates from the most ancient concession of the Bishop; and that already in the early eleventh century, the parish of A. (here S.) was recorded among those subject to tithes. From this, he concludes that these are the spiritual tithes which he collects! For it is not what is done today that must be considered, but what was done from the beginning. He supported these and other arguments of the same kind with historical evidence. However, even if all these were lacking, he maintained that he was safe, and that the clearest testimony of this observance is found in the tithe roll of 1739, in which it is written: "The right of collecting tithes in the region of P. (in which the property of the Family N. is located) surpasses human memory." Regarding the change in customs, he showed that he did not hinder the collection of tithes, even on wine, for one-twentieth part. The greatest profit from the expenses incurred in the field comes to the Family N. He did not even argue that this was the case with newly planted crops, but with tithes that are to be paid after deducting the expenses of cultivation. But to resist this right is not within his power, according to chapter 22 of the Decretals, and according to chapter [his] own title, and according to chapter 28 of the Pastoral, under the same title, etc. The Family N. gave the response that nothing is being done in these places except the ordinary cultivation of the fields, and that the debate concerns the truly extraordinary cultivation of estates. The Doctors all hold that new fruits follow the nature of those which were previously harvested. *Rota in Decis.* 44 and 48 *cor.* *Curillo, Decis.* 114 and 666 *cor.* *Royas in Abulen.* *Decimarum* 15 January 1644.

[*Latin ed. p. 414*]

From the Decrees of the Sacred Congregation of the Council of Trent, 414, cap. Peutinger, and especially Decree 319, page 17 of the "Recent" edition: "It has not been the case that the cultivation of this land has been altered, and where previously grain was sown, it is now reduced to pasture; for tithes are due even from meadows and pastures, and while this universal law remains in force, if a change in the type of seed or method of culti-

Translated by churchlatin.ai, a product of Boyne Archives

vation has been made, the obligation to pay tithes is not removed, but is fulfilled through the fruits obtained from the new cultivation, by virtue of a certain substitution. Otherwise, it would be left to the discretion of farmers and landowners to defraud the Church by changing the seed, and to diminish or abolish tithes, which is not permitted." It is added that the fruits of a property increase as the care and expenses devoted to its cultivation increase; but it is far from permissible for the owners of properties to refuse tithes simply because the fruits have increased. In the Diocese of A. cannabim, grain, wine, and must are subject to tithes; nor is the fruit of the vineyard different from the wine produced, over which the parish priest already exercised the right to collect tithes. This was done solely to prevent the tithes from disappearing. For since the right to collect tithes anciently included grain, wine, and must, and now only must is collected from the property in question, if this were excused, the parish priest would have nothing more to tithe. After these matters were discussed, a question was proposed to the Congregation on September 12, 1874: Whether one should adhere to or depart from the previous decisions; and the Sacred Congregation, after due consideration, responded: Regarding the right to collect tithes, one should adhere to the previous decisions; regarding the quantity, an agreement should be reached; and to the extent that the parties do not agree, the matter should be presented again to the Congregation in the following month of December.

[*Latin ed. p. 415*]

Regarding the tithes or execution of the decree 415, concerning parts that do not conform (as the Holy Congregation had determined), a declaration was added to the decree of December 12th of the previous year, in the decisions: and with regard to the amount, as long as the current vineyard cultivation continues, a third, and not less, must be owed to the Parish Priest, instead of the twentieth part.

PROCEEDING OF THE CAUSE. It appeared that all of the Holy Congregation's responses had been embraced, both concerning the land subject to the tithe and concerning the amount to be paid. But a new avenue of questioning was opened in the execution of the decree; scarcely had it been published when Family N. wrote to the Ordinary, stating that they were prepared to provide, with regard to the past, the quantity of grapes collected. With regard to the future, they promised (if the Parish Priest wished) to allow someone, either themselves or someone sent by them, to be present at the grape harvest, who would count the quantity of wine. On the other hand, the Parish Priest insisted on the execution of the Holy Congregation's decree, demanding that Family N. set a deadline for depositing with the Episcopal Curia the accounts of the grapes collected from the year 1868 up to that day: and to confirm the truth of the accounts by oath. With these things received, Family N. again appealed to the Holy Congregation,

Translated by churchlatin.ai, a product of Boyne Archives

submitting a document in which, after a presentation of the facts, they declared that they were willing to execute the judgment concerning the disputed land, and for this purpose to deposit with the Curia the records of the fruits collected from the year 1868. They also claimed that the Parish Priest should take an oath.

The matter was referred to the Ordinary for information and opinion, as is customary, and by decree it was again presented to the full Holy Congregation, and more arguments were presented by both sides, and the most important of which are as follows.

[*Latin ed. p. 416*]

416 From the *Synoptic Disputation* concerning the Decree of the Council of Noya. THE PAROCHIAL ORATION. He stood first in order regarding the right to send a person to oversee the grape harvest, stating that the parish priest of Fondi was the decimate collector: and that it was not permitted for any tenant to remain ignorant of the condition of the common property. This method of proceeding concerning the tithes of the must was deemed necessary, and to cause injury to no one who exercised his rightful claim. Then, proceeding to more serious matters, he warned that one thing must be kept in mind: namely, that the Family N. had previously offered to pay tithes only on the disputed portion of the estate, that is, on that part of the estate concerning which the question was raised. This was deemed unjust, because in the past, from the year 1858 to 1867, the Family N. had paid the tithe on the fruits of the entire vineyard. Before the Holy Congregation, there had been a dispute concerning the entire vineyard, which the Family N. had never divided into separate parts; therefore, since the Holy Congregation, with a positive response, had settled the dispute regarding the right to collect tithes on the property of the Family N., there was no reason to prevent the tithe from being collected on the smaller portion of the estate. THE ORATION OF THE FAMILY N. This preceded the Parish Priest's petition to the Bishop, containing requests that were deemed to be somewhat inconsistent with each other. They wished to have their own procurator present throughout the entire harvest season, in order to ascertain the quantity of must; they wished, furthermore, that a sworn oath be taken regarding the delivery of the must; and finally, they wished to pay the tithe not only on the vineyard concerning which there was a dispute, but also on the neighboring property, concerning which, by a particular agreement, it was otherwise settled and about which there was no dispute. Regarding the first two requests, they stated that they had never denied either; they were simply requesting that neither be granted simultaneously, namely, the oath and the presence of a custodian, since either one would suffice for their security and for the discovery of the truth. But these were

Translated by churchlatin.ai, a product of Boyne Archives

minor matters. They insisted, first of all, that...

[*Latin ed. p. 417*]

Regarding the execution of rescript 417, the quantity of vineyard affected must be determined according to the judgment of the Holy Congregation. Concerning the measurement of the vineyard, it should be known that in that region, two properties are united today under a single ownership, although they were acquired at different times and were subject to the tithe in different ways. One of these properties, which appears on the records for 70 [units of area], has always been subject to the tithe; but two centuries ago, through an agreement between the lord and the parish priest, two *scutata* were paid annually in lieu of the tithe, which the current parish priest himself has received and continues to receive. In the other, larger property, which covers 87 [units of area], the tithe was paid from the fruits. However, since today that property has been reduced to 37 [units of area] for the purpose of cultivating the vineyard, a dispute has arisen in this part of the property, which has been settled by the Holy Congregation. Under these circumstances, the parish priest, wishing to transfer the property that is subject to the tithe to the other property, seeks to violate the old agreement and, through the judgment of the Holy Order, to obtain more than was requested. The reasons presented were that the tithe should also be paid on the new cultivation of the property, which was acquired at great expense. This was also stated by the parish priest himself in the meeting of September 12, 1874, where it was openly said: "There are certain properties of the N. family in the P. region that are subject to a canon [tax] that does not pertain to this case." Secondly, it was proposed to provide prudently, not only for the present but also for future disputes. Finally, the Holy Order responded: and with regard to the quantity, as long as the current vineyard cultivation continues, the parish priest is due a tithe of thirty or more [units of area] instead of the customary twentieth part of the *musti*. So many questions have been raised, as the words of the rescript indicate. There is only one hope for a solution: that the canon be converted into money, and that the Holy Order order it to be collected in a certain quantity. Records, volume IX, page CIV, 27.

[*Latin ed. p. 418*]

418 From the Sacred Congregation of the Council, a Doubt. Whether and in what manner the petition of the Family N., or rather, of the Parish Priest of S., should be received concerning tithes. RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter, gave the following response on September 2, 1876: The resolution given on December 12, 1874, did not affect, nor does it affect, the property or portion of property for which a certain sum of money in the amount of 2.30 scudi annually is collected under the title of tithes. In the remaining property, or in the

Translated by churchlatin.ai, a product of Boyne Archives

remaining portion of the property, except for the area of 37.87 arpeni in which a vineyard was recently planted, the parish priest retains the right to collect tithes, concerning the quantity and quality thereof, observing the ancient custom. Furthermore, the Ordinary shall settle the matter concerning the vineyard of 37.87 arpeni by establishing a certain annual sum of money, in place of payment in kind. FROM THESE, THE FOLLOWING MAY BE GATHERED: I. All that which was stated in the previous decision concerning this matter (see Volume VII, page 392) remains in force. II. New plantings should be considered as subject to tithes, when the land has never before been cultivated. III. New types of cultivation may, in a certain sense, be equated with new plantings, which are introduced in our times on lands previously cultivated but now fallow, requiring great expense and labor. IV. Due to the enormous expenses of cultivation, the Sacred Congregation, guided by equity, has, in certain cases, remitted something concerning the manner of collecting tithes, both concerning the quantity of the tithe and concerning the manner in which it is collected. V. Tithes are not due, when on the property an annual payment or canon, however small, has already been established in place of the tithe.

[*Latin ed. p. 419*]

FROM the declaration of the Most Holy Congregation of Bishops and Regular Canons of the Order of St. Francis concerning travel by railway. July 21, 1876. Summary of the matter. From Chapter III of the Rule of St. Francis, solemnly approved by the Roman Pontiffs, it is derived that the Brothers Minor should not ride [on vehicles] unless they are compelled by manifest necessity or infirmity. Therefore, since the year 1863, the Most Holy Congregation of Religious has been presented with the following question: "Whether the use of railway carriages, and the value of the tickets purchased, is permitted to the Brothers Minor of the Observance in certain cases, and how so?" To this question, the Most Holy Congregation judged it fitting to respond affirmatively, for a reasonable cause, with the permission of the Superiors, and always preserving, in this matter, the spirit of humility. However, with this opinion having been presented, which at the beginning was considered the greatest and the norm for these matters and times, a variety of opinions arose concerning the causes and the manner of its use. It has been debated whether the same reasons should apply for undertaking a journey by railway as are required to grant permission to Religious who beg to ride or drive against the aforementioned rule. This diversity of opinion arose from the clause included in the aforementioned resolution, namely, "for a reasonable cause, as in the case of carriages." Consequently, the General Procurator of the Capuchins, for the sake of peace of conscience and to avoid dissension of opinions, requested from the Most Holy Congregation of Religious an authentic interpretation, posing the following question: 1. See Volume I, page 32 and following, of these

Translated by churchlatin.ai, a product of Boyne Archives

annals.

[*Latin ed. p. 420*]

420 From the Decree of the Congregation of Bishops and Regular Canons: "Whether the words contained in the statement concerning permission refer to the license which is required by Superiors for the use of steam-powered carriages, or rather, they should be understood to refer to the reason which is required so that the brothers may use the railway, namely, infirmity and other manifest necessity, as the Rule states when it gives the precept concerning riding." The aforementioned Congregation referred this question to the Reverend Father General Minister of the Observant Franciscans, with the intention that he might express his opinion and vote on the matter in question. After the Father General Minister had, in obedience to the mandates, made certain preliminary observations concerning the doubt under consideration, he stated that two things must be distinguished in such a question. Namely, whether the use of steam-powered carriages should be equated with the use of carriages expressly prohibited to Religious Minorites by their own Rule; which is the same as asking: whether the use of steam-powered carriages is permitted to the Brothers Minorites. He stated that the Most Holy and Reverend Congregation had answered this doubt affirmatively; because steam-powered carriages are in no way to be equated with riding, which is prohibited by the Rule, and therefore, it is permissible for the Brothers Minorites. And this decision was so clear on this point that it never gave rise to any doubt. Passing to the second point of the question, he said: "Assuming that the use of steam-powered carriages is permitted to the Brothers Minorites, the question arises (and this is the core of the question) how the Religious can make use of such means of transportation." Indeed, he said, diverse opinions and anxieties of conscience have arisen from those words "concerning the license of the Superiors, as in the use of carriages." As a result, the General Procurator of the Capuchins sought an authentic explanation of those very words. To this doubt (which we also declare), the Minister continued, we believe we can give an answer.

[*Latin ed. p. 421*]

Concerning travel prohibited to Minorites 421, "affirming the first part, and negating the second." And we say this with reason, because travel on railway lines is not, in itself, prohibited, and therefore does not require the same conditions that the Rule imposes for travel on roads; which is expressly prohibited, and which is not permitted to Religious, unless they are compelled by manifest necessity or infirmity. We have said that travel on railway lines is, in itself, permitted to the Brothers Minor; it could happen that, by accident, it would not be permitted, namely, when it would be necessary to resort to money; which is certainly prohibited by the Rule.

Translated by churchlatin.ai, a product of Boyne Archives

Therefore, the Most Reverend General says, we believe it useful to eliminate all subsequent differences of opinion, so that a response to doubts should follow this observation: - However, it must be understood that we are speaking of the permissibility of travel on railway lines in itself, abstracting from the possibility of having to resort to money; for if it were necessary to resort to money, said travel would not be permitted, except with the conditions, precautions, and methods prescribed to the Brothers Minor, for each such recourse, according to the Decretals of Nicholas III and Clement V.

Synopsis of the discussion. It is known that since 1861, the General Definitorium of the entire Order of the Minorites has presented this opinion: Compelled at this general assembly on November 20, 1861, under the presidency of the Most Reverend Father General of the Order, the question was first proposed whether, contrary to the Rule of Saint Francis, travel on modern steam-powered vehicles (commonly called "railways") is permitted to the Brothers Minor. Therefore, the Fathers of the General Definitorium, having considered and pondered maturely the precept of the Franciscan Rule concerning not riding, as well as other articles of the same Holy Rule, concerning poverty, and the spirit of humility and wisdom, unanimously came to this conclusion: The use of a steam-powered carriage is not, in itself, prohibited by the Rule, but nevertheless...

[*Latin ed. p. 422*]

From the Sacred Congregation of Bishops and Regular Canons, it is declared that it is not illicit, nor forbidden by the Rule, to have recourse to money, if there is no just cause for doing so. Similarly, it is in no way permitted to the brothers, who are excessively indulging in their recreation, to undertake useless journeys in steam-powered carriages; indeed, they ought to watch over such abuses, so that such things do not occur. Without their permission, even pedestrian journeys, and much less journeys on railways, cannot be undertaken. This judgment is strengthened by the authority of Saint Bonaventure, who (in the typical edition of the Vatican) in his *Expositiones in Regulam S. Francisci*, explaining the aforementioned article of the Rule, says: "but for the sake of equity, the Rule adds 'and they ought not to ride horses,' and consequently, neither should they ride carriages or chariots, which are of greater expense, unless they are compelled by manifest necessity, a lengthy or difficult journey, or an urgent business, or infirmity; he says 'they ought not' for the reason that it is: they ought not to ride." It has also been observed that the Rule of Saint Francis says only that they ought not to ride horses; therefore, this prohibition cannot be extended to other cases, which essentially differ, such as a journey undertaken in steam-powered carriages. For Saint Francis did not order the brothers to go on foot; but only said that they ought not to ride horses. And although it is agreed among the commentators of the same Rule that the prohibi-

Translated by churchlatin.ai, a product of Boyne Archives

tion against riding carriages or chariots is included within the prohibition against riding horses, it is in no way agreed that a journey on railways is forbidden by it. And this is most clearly consistent with the axiom that a law does not bind beyond the intention of the legislator; because every obligation of a law depends on the free and serious will of the legislator, duly promulgated to those to whom it is intended to bind to obedience. Therefore, it must be said that something is not included in a law if it is not in any way contained in the intention, or in the words, of the legislator. But Saint Francis, by prohibiting one way of traveling, that is, riding, could in no way have intended, or had a free and serious will, that his prohibition should include...

[*Latin ed. p. 423*]

Regarding the prohibited journey for Minor Friars: 423 The method of establishing another journey is entirely unknown, since, according to the philosophical principle, nothing is willed unless it is known. Therefore, the prohibition of steam carriages, if it is not included in the intention of the legislator, is also not contained in the very law that prohibits it. Father Albert of Bolzano, in the *Expositiones regulæ fr. minor. S. Franc. Assis*, presents two difficulties, among others: one concerns merit; the other limits the manner. Thus, he argues: "To those for whom less is prohibited, more is also prohibited; but to the Minor Friars, riding, driving, and using a carriage are prohibited; therefore, also that which is more, namely, traveling in a steam carriage, in which the journey is completed with the greatest ease and speed, is prohibited. Response: The proposition must be distinguished; it is true if it is said, 'To those for whom less is prohibited in one species, more is prohibited in the same species,' but it is false if it is said, 'To those for whom less is prohibited in one species, more is prohibited in another species,' thus, for example, to the Hebrews, pork was forbidden, but it cannot be said that therefore veal, capons, and more valuable and tasty birds were also forbidden to them. In the same way, any species of riding is prohibited, but therefore navigation and travel in steam carriages are not prohibited, because neither pertains to the species of riding, although perhaps travel offers greater conveniences to the traveler." He explains another difficulty concerning the manner of using railways, the same author. "If it is admitted that a steam carriage is not prohibited by the rule, great inconveniences follow. An opening is given to the brothers to return illicitly to money; those who love travel multiply their journeys, which completely dissipate their spirit; and the world is scandalized, seeing the Capuchins, not walking on foot in some way, but being transported in carriages." The same author confesses that a serious objection exists: but pro-

[*Latin ed. p. 424*]

424 From the Decrees of the Bishops and Regular Canons follows:

Translated by churchlatin.ai, a product of Boyne Archives

"Inconveniences, abuses, and irregularities can occur even in the most sacred matters, for example, in Confession and Holy Communion, yet these do not render them inherently blameworthy. Many inconveniences also arise from the traveling of brothers on foot. How often, when walking in rain and snow, do they harm their health, and become unable to attend to their duties? How often do they waste time in the conversations of secular houses, becoming a burden to benefactors, and utterly dissipating their spirit? These inconveniences should be compared to those that can arise from the use of steam carriages, so that a prudent judgment may be rendered, if it is asserted that the use of a steam carriage is not, in itself, forbidden by the Rule; however, it is certainly not denied that it can become illicit and forbidden by the Rule, if it requires recourse to money without a just cause." Therefore, the use of steam carriages does not appear to be forbidden by the Franciscan Rule; although there are those who reject such an opinion as false and reprehend it as lax. However, these should remember that the same Saints, when speaking of obligations to be imposed, taught that we should be inclined more towards kindness than towards severity. St. Raymond says: "Do not be quick to judge mortal sins, unless it is clear from certain Scripture." And St. Gregory of Nazianzus says: "If the matter is doubtful, let human kindness and frailty prevail." And finally, Pope Benedict XIV, in his notes, says: "Bonds should not be imposed if there is no clear law that imposes them." And I. 47 ff. concerning obligations and actions. Where the question of imposing obligations is raised, we should be more inclined to deny it. Therefore, adhering to these principles, the Sacred Congregation, although declaring the use of steam carriages to be permissible for the Brothers Minor, nevertheless wished that this be granted for a reasonable cause, with the permission of superiors, as in the case of carriages: but for the use of carriages, infirmity or manifest necessity is required by the Rule of St. Francis. Therefore, this relative clause.

[*Latin ed. p. 425*]

Regarding the prohibited journey for minors, section 425, it indicates a reason for reasonableness in a general sense, and it requires a state of infirmity. It does not appear that a particular clause of this nature can exclusively refer to the license of a Superior, for these clauses, placed at the end of a section, relate to all preceding dispositions, either expanding or limiting them; the clause placed at the end refers to all that precedes: De Luca, on Guardians, book 19, paragraph 4. This is confirmed by Barbosa, in his *Tractatus de Dictionibus Frequentibus*, word 296, paragraph 15: "Thus, this word always signifies that something is placed which is *different* from what was placed before, by the word 'prout'." And so it is with all qualities that are suitable to the act to which the assimilation is made, as the *Gloss* states, under the word "Prout" in chapter "Quamvis

Translated by churchlatin.ai, a product of Boyne Archives

de officis," book 6. Bartolus, in the *Extravagantes* concerning the suppression of "Signorolo," council 22, paragraph 12, at the end, and paragraph 13, where he says that "similarity signifies not only in substance, but also in quality," and Geminian, council 22, at the beginning, where it is said that "an *imperfect* similarity is present." Therefore, if the words of the decree are clear, no place is given for an interpretation contrary to the legal maxim: "When there is no ambiguity in the words, the intention of the will must not be questioned," Paul, in the *Leges*, book 25, chapter 1, section 3. Finally, the Sacred Congregation could have determined that the use of a steam carriage is not included in the Franciscan rule; but to subject it to the same conditions under which riding is permitted, would be a different matter. However, the arguments presented by the Procurator General of the Capuchins and the Minister General of the Minor Order, who asserted that the clause "prout" in the use of carriages pertains to the license of Superiors, and not to the reasonableness of the reasons, should not be disregarded. For if the same strict conditions were required for the use of a steam carriage as are required for riding, the prohibition would be assimilated to, and almost confused with, the thing that was declared permissible.

[*Latin ed. p. 426*]

From Section 426 of the Decrees of the Bishops and Regular Canons: "If the infirmity or manifest necessity were to be considered as conditions that must be present, no resolution would have any general effect; for even if a just cause were present, such religious men would not be able to enjoy the benefits of such resolutions, since they could avoid many dangers by using less convenient means, and would waste little time. Furthermore, certain correct interpretations of the rule have been added, such as the resolution that those who seek permission to beg should present it with the utmost diligence. Words that can be understood in two ways must be interpreted in the more humane sense. *Leg.* - *fin.* *Cod. de com.* Similarly, we must use a fitting interpretation to avoid absurdities in the laws. However, we should adopt the more benign interpretation if the word "prout" (as) in the context of the rules refers only to the permission of superiors. For with such an interpretation, each part of the resolution would retain its effectiveness; and no word would remain without effect, if, under the words, a reasonable cause is understood to mean the removal of the reason for the journey, and that the journey is undertaken only for pleasure. Indeed, by the force of a more benign interpretation, the words of the aforementioned resolution would conform to this form, leaving it to the prudent judgment of the superiors. With these premises, the following doubt was presented to the Congregation: "Is a reasonable cause sufficient to obtain permission from a superior to travel on railways, in accordance with the resolution of June 19, 1863, or must infirmity or manifest necessity necessarily be present?"

Translated by churchlatin.ai, a product of Boyne Archives

RESOLUTION: The Holy Congregation of Bishops and Regular Canons, having considered the matter, decided on July 21, 1876, to respond as follows: Affirmative to the first part; negative to the second.

[*Latin ed. p. 427*]

CONCERNING THE PROHIBITED JOURNEY FOR MINORS, CONSEQUENTLY, YOU WILL UNDERSTAND THE FOLLOWING. I. It is permissible for the Brothers of the Order of Saint Francis to travel on railway lines; and this in no way falls under the prohibition of the Rule, as if it were riding. II. For steam-powered carriages, propelled by their own force, cannot be equated with riding or traveling by carriage, of which the Franciscan Rule speaks, since they do not in any way belong to the nature of those things. III. Saint Francis could not have forbidden his brothers from traveling on steam carriages, nor could he have taken anything away from them regarding this, especially since such a mode of travel was unknown to him. IV. For what is permitted is only that which is known; and the law cannot obligate beyond the intention of the legislator: since all obligation of the law depends on the serious will of the legislator, duly made known to those subject to it. V. Furthermore, Saint Francis did not order his brothers to travel on foot; but only decreed that they should not ride unless they are compelled by manifest necessity or infirmity. VI. Therefore, since a new obligation is being considered, it must be remembered that Benedict XIV taught: "Bonds should not be imposed if there is no clear law that imposes them"; and I. 47 ff. on obligations and actions, where the question of obligation is discussed, it is our duty to be more inclined to deny. VII. Finally, it is permissible to conclude that if the Religious of the Order of Saint Francis are not forbidden to travel on steam carriages, and if, unlike traveling by carriage, neither infirmity nor manifest necessity is required for this, then a reasonable cause is entirely necessary, with the prudent permission of Superiors, so that scandals may not arise from improper use.

[*Latin ed. p. 428*]

428 From the Apostolic Constitution *Episcoporum et Regularium IURISDICTIONIS* of May 28, 1875, and *TERRITORIALIS* of June 2, 1876. Summary of the facts. At the extreme boundary of the Diocese of C, from ancient times, there is found a town called Castellucio Superiore. At another extreme boundary of the Diocese of A, another town arises, called Episcopia. Between these two towns, Mount [Mons] rises; which is considered the natural boundary of the two Dioceses. From the northern side of this Mount extends the *pago* Agromonte, in which 1700 inhabitants reside; concerning whose jurisdiction the present dispute arises. Both the Ordinary of the Diocese of C and the Ordinary of the Diocese of A vigorously contend that the *pago* belongs to them, based on facts and legal reasons. Synopsis of the arguments. THE ARGUMENTS

Translated by churchlatin.ai, a product of Boyne Archives

PRESENTED BY BISHOP A IN FAVOR OF HIS POSITION. This Ordinary argued that the *pago* of Agromonte has always been subject to the Presidents and Judges who resided in the Diocese of A for civil matters; and therefore, in all respects, has been subject to the parish priest who is located within the boundaries of that same Diocese. However, this parish priest, the Bishop continued, did not directly administer the spiritual care of the *pago* of Agromonte, but entrusted it to a parish priest from Episcopia within the same Diocese; since that priest was much closer to the *pago* of Agromonte. Furthermore, the Ordinary presented another argument in his favor, based on distance; he stated: "Agromonte is approximately twelve thousand paces distant from Castellucio Superiore, while it is only three thousand paces distant from Episcopia." He also presented facts to support the proof of his jurisdiction. For example, when a faithful person wished to build something in the Diocese of C,

[*Latin ed. p. 429*]

Regarding territorial jurisdiction, in the year 1829, the chaplain in the village of Agromonte did not seek permission from his own Ordinary, but from the Ordinary of the Diocese of A. Furthermore, the Civil Government, which had granted permission, also sent a letter to the Bishop of A, requesting that he ensure that the aforementioned faithful would pay the necessary expenses. In the year 1828, a chapel was built, and it was delegated by the same Ordinary a Vicarius Foraneus from the Diocese who would visit and bless it. It is also reported that a predecessor had granted the presbyter who administered the chaplaincy of the village of Agromonte the faculty of hearing sacramental confessions. From the year 1526, the Archpriest and Cantor from Agromonte were obligated to render obedience in the Cathedral Church of A; from this fact, it is asserted that from that time onward, the village of Agromonte has been under the jurisdiction of the Diocese of A. Moreover, it was discovered in the parochial records that two newborn girls from Agromonte had received the sacrament of baptism in the village church of the Diocese. The patron of another chapel located in Agromonte testified that, in the years 1854 and 1859, the Ordinary of the Diocese of A conducted a visitation of those chapels. The Vicarius Foraneus from the village of the Diocese reported that he inquired in Agromonte and, under oath, asked the elders: 1st, to whom the spiritual jurisdiction of that village belonged; 2nd, from whom they had received the Sacrament of Confirmation; and whether the Bishop of C had ever conducted a visitation of those chapels or administered the Sacrament of Confirmation there. To the first question, they stated that they knew and had learned that the spiritual jurisdiction belonged and pertained to the Bishop of A. Regarding the second question, they stated that they had received the Sacrament of Confirmation from that Bishop who, when the opportunity arose, was found in a more convenient and proximate location, but that they had never

Translated by churchlatin.ai, a product of Boyne Archives

received the Sacrament of Confirmation from the Bishop of the Diocese of C, nor had he ever conducted a visitation of those chapels.

[*Latin ed. p. 430*]

430 From the document presented by the Ordinary, Bishop C., extracted from the Synodal Constitutions of the year 1702, a list is shown of the dioceses, cities, towns, and castles; among which is also mentioned Agromonte. FROM WHAT THE BISHOP C. PRESENTED IN HIS FAVOR. The Ordinary stated that approximately 2,000 inhabitants resided in the aforementioned territory of Agromonte; which, at the beginning of this century, was nothing more than a desolate land and a fief of the Marquis of Castelluccio superiore; which, divided into small parts, was granted through long-term leases to colonists, who, after completing their daily labors, returned late to their homes located in Castelluccio, possessing nothing in Agromonte except houses constructed of reeds and wood, built in such a way as to be protected from the waters. Now, Agromonte has grown to such an extent that it has joined Castelluccio superiore; a large town subject for centuries to the jurisdiction of Bishop C. Finally, with the abolition of feudalism, the colonists, who had become useful inhabitants, only pay an annual contribution to the direct lord, and have built houses there in which they reside during the harvest season. However, they have not considered abandoning their homes, which they still retain, because there they have their families and the sum of their possessions; which, according to I. Cives 7, chapter concerning inhabitants, truly constitute a home. Regarding spiritual matters, these inhabitants have always desired to be and to be considered children of the parish church of Saint Margaret in Castelluccio superiore. In that very font, their newborns receive the sacrament of baptism in Agromonte. Can. in Sacris 56, cons. 16, qu. 1, cap. cum olim 18 de praescript. In that cemetery, they ensure that their deceased are buried, as stated in chapter nos. 1, and chapter concerning souls, regarding burials, in 6. In that parish church, they celebrate marriages: Trid. sess. 24 de reformat, matrim. There, they attend the sacred tribunal of penance: cap. Omnip. 12 de poen. et remiss. There, they fulfill the Paschal precept: Clem. i de privil. There, they often hear the word of God.

[*Latin ed. p. 431*]

Jurisdictionis territorialis 431. Concilium Tridentinum, sessio V, cap. 2 de reformandâ, ab ea SSmum excipiunt viaticum atque unctionem extremam. Clemens, citatus. Archipresbytero curato sacramentales decimas cap. cum a nobis 2A; cap. cum contingat 29 de decimis tradiderunt, donec id fieri per legem italicam vetaretur. Ex quo satis aperta fieri posset deductio, quae omnino conveniret cum doctrina, Schmalzgrueber, vol. VI, pars III, titulus 28, § 4 de sepultura parochiali; quo loco respondetur dubio: «ubi nam sepeliendus sit qui neque maiorum suorum sepulturam habet, nec ullam sibi

Translated by churchlatin.ai, a product of Boyne Archives

elegit? De iure sepeliendus est in propria parochia, ubi domicilium habuit, et sacramenta caeteraque divina percepit.» Cap. nos instituta 1 et cap. animarum de sepultura in 6. Proceditque hoc, etsi non fuisset ibidem mortuus, sed in Villa, vel alibi in loco extra parochiam suam sito, ad quem se contulit recreationis, culturae, vel amici invisendi causa, modo ad parochialem sepulturam commode portari posset, ut statuitur cap. is qui 3, pars hoc titulus in 6. Ratio est, quia per hoc quod quis transeat a loco domicilii ad alium locum, ibique ad tempus habitet, non amittit prius domicilium, nec fit incola, aut parochianus loci, ad quem migravit ob eiusmodi causam. I. domicilium 20 et I. eum qui 27; Celsus 2 ff. ad municipal. In themate Ordinarius C. ait, per aequivocum tantum, quo fundatores capellarum petierunt ab Episcopo A. facultatem easdem aedificandi, arbitratum fuit Agromonte comprehendi intra limites "Dioecesis A.", quod a veritate abest. Nam cives ex Agromonte domicilio et possessione sunt paroeciani ecclesiae Sanctae Margaritae e Castelluccio. Quod iidem sint illius ecclesiae paroeciani per domicilium, ab eodem Episcopo adversario conceditur; quia illorum originem fatetur fuisse ex Castelluccio. Quivis enim a patre originem repetit iuxta legem 19 ff. de statu hom.: "Patris originem unusquisque sequitur." Si conceditur enim...

[*Latin ed. p. 432*]

432 From the Sacred Congregation of Bishops and Regular Canons, these [religious] originate from Castelluccio and their residence in Agromonte is accidental; therefore, the true domicile is the place of origin, as is stated in Instruction 17, § 13, concerning municipalities. Solely possessing a house in a foreign territory does not constitute domicile. Furthermore, acts of possession are also added to establish said parochial status. To demonstrate parochial rights, possession in the administration of the sacraments has always been presented as evidence in court; and the Sacred Roman Rota, in Decision 368 before Crispin, no. 14, observed this regarding tithes, stating: "To prove the quality of a parish, the collection of tithes is also added." Nor will prescription be beneficial to Bishop A; for, setting aside the fact that the boundaries of a diocese are not subject to prescription, the reason for possession remains entirely with Bishop C, concerning the goods of the faithful from Agromonte, acquired in good faith and with just title; not at all with Bishop A, although he has repeatedly attempted to exercise his jurisdiction there. Finally, it should be noted that, assuming the inhabitants of Agromonte have only one domicile, as demonstrated by Bishop C of the diocese, then it appears that the Episcopal jurisdiction belongs to the same Bishop under whose authority the parish priest actually depends, who celebrates the marriages of those inhabitants. It is also not irrelevant to mention certain important principles of canon law concerning the parish priest's proper role in marriage, not for judging their validity, but only for clarifying territorial jurisdiction. These important principles, collected by

Translated by churchlatin.ai, a product of Boyne Archives

the authors, received solemn confirmation from Benedict XIV in Instruction XXXIII, no. 6: "When it comes to marriage, the parish priest should be consulted (Sacred Congregation of Councils) in whose parish the domicile is located, and not in whose parish we received our first sacraments." Furthermore, orders can be lawfully conferred through...

[*Latin ed. p. 433*]

Jurisdictional Territory 433: "The bishop has jurisdiction not only over the place of residence, but also over the place of origin; therefore, 'a place has been designated for inquiry' to determine whether, for the purpose of celebrating marriages, the parish should be established there. However, from the very words of the Council, it is clearly understood that the parish priest of the place of residence is sufficient, and the sacred canons, using the same words, have expressly included the parish priest of the place of origin, as is the case when the matter concerns sacred ordination. These are the solid foundations upon which the unanimous opinion of the writers rests, and for this reason, if the proper parish priest is considered responsible for celebrating marriages, in whose jurisdiction the residence is located, as Sánchez de matr. lib. 3, q. 3, n. 7; Perez de not. matr. disp. 40, n. 1, part de matr. loc. 5, cap. 13, § 1 states; likewise, the Congregation of Councils has also held this opinion, as on November 18, 1702, in the case of a marriage in Modena, Cardinal Bandini and Panciatus, Prefect of the same Congregation, with their particular suffrage, carefully examined the opinion that we have just explained, wisely defended it, and affirmed it solely for the purpose of establishing it. Furthermore, influenced by these reasons, eminent writers acknowledge that a person who has two residences in different parishes can validly enter into marriage before the parish priest in whose jurisdiction he resides at the time the marriage is contracted; Clericatus Decis. 45, n. 19. However, they point out that a person should only be considered to have two residences if he is equally located in both, according to the judgment of prudent men, which is also approved by the authority of pontifical law: 'Since a person who has two residences, equally establishing himself in both, is pleasing to prudent men, it is possible for him to have a residence in both places, so that he should not be considered to have moved to the other place.' Finally, the Supreme Pontiff, in n. 4, based on various resolutions of the Sacred Congregation, excludes the rural parish priest: 'The rural parish priest is not [sufficient]; Acta, tom. IX, fase. CIV. 28."

[*Latin ed. p. 434*]

434 From the Apostolic Constitution concerning Bishops and Regular Canons: "When a priest goes to the countryside for the purpose of administering the sacraments, or for the benefit of the rural inhabitants, he is considered a visiting priest, and not the proper parish priest. In Florentina, a similar response was given: a rural priest is not the proper parish priest, and any

Translated by churchlatin.ai, a product of Boyne Archives

marriage celebrated before him is considered null. In another document, it was held that a marriage contracted before a parish priest is not valid if the contracting parties are not intending to establish their domicile there. On December 1, 1640, in book 16 of the Decretals, page 470." These passages, excerpted from Constitution 53, provide a criterion by which it can be determined whether and how the celebration of marriages determines territorial jurisdiction. To these, one could add the pronouncements from the Roman or Neapolitan Congregations, dated May 4, 1859, and from Como, or Milan, dated December 3, 1863, April 23, and May 28, 1864, in which the matter of domicile, and quasi-domicile, is discussed at length. Finally, Bishop C. added: "Any future pronouncements of the Holy Congregation must not overlook the fact that in Agromonte there is a lack of a priest who resides there to administer the sacraments; therefore, another question arises: how should provision be made for the care of souls?" With these considerations brought forward by both sides, the Cardinals judged that two underlying doubts must be resolved. I. Does the town of Agromonte belong to the jurisdiction of Bishop C., or to the jurisdiction of Bishop A., in this case? II. How should provision be made for the care of souls in the same town (Agromonte) in this case? RESOLUTION. The Sacred Cardinals and Religious Fathers judged that, on May 28, 1875, the following should be answered: "Further evidence is required and must be presented. Bishop A. presented compelling testimonies, in which the names of the deceased, the administration of baptisms, and the administration of the last sacraments were noted." CONTINUATION OF THE CASE.

[*Latin ed. p. 435*]

The Bishop stated that this should be noted: whenever in the parish records of Oppido, under the jurisdiction of the Bishopric, the name of a deceased person (from Agromonte) is mentioned, it is written that the person belonged to that town; thus, Oppido is subject to the spiritual jurisdiction of the Diocese of A. The register of baptisms also showed this; and after each name, it is recorded that the person was born, male or female, in the town of Agromonte, within the Diocese of A. Finally, he presented testimonies from thirty inhabitants, who, under oath, affirmed that the priests from Castelluccio superiore had only been permitted, by the Bishop's permission, to say Mass on feast days in the churches of the town of Agromonte; and that they had never administered the necessary sacraments, either by necessity or by command. The Ordinary [Bishop] C. reported nothing new. Therefore, the same two questions were presented again to be resolved. The Sacred Congregation, on June 2nd, discussed the case again, and subsequently decided to respond as follows: To the first question: Affirmative, to the first part; negative, to the second part. To the second question: Affirmative, and with the understanding that Bishop C. should provide, either through the parish or through a chapel, for the people of Agromonte, with

Translated by churchlatin.ai, a product of Boyne Archives

the real presence of one or more priests in that place.

THEREFORE, IT IS UNDERSTOOD:

I. That when a Diocese is assigned to the Roman Pontiff by special privilege, therefore, Bishops are not permitted to alter the limits of their own Diocese, nor to allow others to make changes to it.

II. That even the Council of Cartagena ordered that no Bishop should usurp the rights of others, nor should any Bishop be allowed to interfere with his colleague within the Diocese.

III. That neither through royal discord, by which the borders of kingdoms are often changed, nor through partial actions of the laity,

[*Latin ed. p. 436*]

436 From the Sacred Congregation concerning the variation in the jurisdiction of Bishops and Regular Canons within a kingdom or province, it is understood that Dioceses may undergo changes; and because the Church of God is exempt from civil jurisdiction. IV. It seems fitting to state that the place concerning which there is discussion, namely, to which Diocese a certain place should belong in spiritual matters, pertains to that Diocese to which the parish belongs in which the inhabitants have their permanent dwelling and in which they receive the sacraments. V. The domicile of a people is that place in which they reside with intention and purpose, and in which they maintain their family and the majority of their possessions; and not that to which they go for the purpose of cultivation, even if they also have a dwelling there; because a mere house does not constitute a domicile in a foreign land. VI. It has appeared to be more probable in the matter that the inhabitants of Agromento regularly receive the sacraments in the parish of Castelluccio superiore, from which originates the water, and in which they maintain their permanent dwelling; therefore, it should be determined that they are subject to that Episcopal jurisdiction to which that parish is subject. VII. To demonstrate parochial rights, possession in the administration of the sacraments has always been considered the most important proof, to be preferred above all others.

NOMINATION. On June 2, 1876, a summary of the facts was compiled. The Most Holy Father, Pope Pius IX (may Divine Providence continue to protect him for the comfort of the good and as a bulwark against the attacks of the wicked), on January 2, 1847, issued a decree concerning the Table and Seminary of the Diocese of N. The Table and Seminary were in need of assistance; therefore, in order to benefit both, a small Convent of the Third Order of St. Francis was suppressed, which was located in the town

Translated by churchlatin.ai, a product of Boyne Archives

of Sangemini.

[*Latin ed. p. 437*]

Nomination 437 existed; and the property of it was granted perpetually to the Episcopal See of N. Furthermore, Ordinary N. imposed burdens concerning the suppressed monastery upon the Church; and finally, he added: "Moreover, it shall be held that each year the sum of fifty shillings shall be paid for the support of the rural poor of Sarum, and also a necessary pension to maintain in the same place a young student from the town of Sangemini, to be designated by Bishop N." Until the past year, matters proceeded peacefully, with the Bishop regularly carrying out the nomination according to the concession granted by the Pontifical decree. However, at the time when a new student was to be chosen free of charge from the Seminary by the Ordinary, several from the town of Sangemini presented themselves, desiring to be considered. Nevertheless, the Ordinary, exercising the privilege granted to him by the Pontifical decree, preferred a young man named Guidon T. over the others, and granted him the nomination with letters dated October 1, 1875, written by the hand of his brother, a priest, who was greatly afflicted by infirmity. Consequently, the chosen young man entered the Seminary at the beginning of November, to devote himself to his studies. However, the Canon Penitentiary protested against such a nomination, arguing that a young man named Alexander C., an orphan of his parents, richly endowed with merits and all necessary qualifications, should have been preferred over the other chosen. Even the mother of the young man, Caesar T., issued her own protest against the completed election; for, as soon as she learned that Guidon T. had already entered the Seminary, incurring a great expense for his family, she sent a message claiming to exercise the right of her son, Caesar, as reported by the Auxiliary Bishop. The Sacred Congregation of the E. and P. sent letters to the Auxiliary Bishop (since the Auxiliary Bishop had already completed many years and was infirm), requesting his opinion on this matter, after hearing those with an interest. The Bishop reported:

[*Latin ed. p. 438*]

438 From the documents presented, the qualities of Guy T. are judged to be inferior to those of Alexander C., although the position he obtained in the Seminary is not unworthy. It was also reported that the father of Alexander C., although he claims to have been born elsewhere, resided for eighteen years in the town of Sangemini, where he successively married two wives; therefore, he is not without influence. This was determined by the Ordinary, and the Holy Congregation considered it advisable that the matter be resolved by a full assembly. A summary of the discussion. The father of his son, Guy, defending his rights, stated that he had brought Guy to the Seminary, one of the seven sons he had fathered, and that after learning

Translated by churchlatin.ai, a product of Boyne Archives

that he had been selected for free maintenance, he had only moved from his home for domestic reasons, contrary to his son's nomination. Regarding the merits of the case, he did not consent to any injustice having been done to the detriment of Alexander C. For, he said, from the document given by the Most Holy Congregation, it is clear that a burden was imposed on the Episcopal Table to provide for a young man from the town of Sangemini, so that that town might be compensated for the damage it suffered through the suppression of the Convent of Saint Catherine. The son of Aloysius C. would be attempting to benefit uselessly from this, since he delayed in the town of Sangemini only because of the remuneration he received there; if he were removed from that position, he would be forced to leave; while he lacks a proper and stable home. This is so true that, after the death of his father, the son, Alexander, returned to his homeland and has remained there since 1870. Therefore, he could not have been preferred over his own son, especially since the latter was absent. He also stated that his son had received the nomination from the Ordinary through the medium of his brother, a priest, who acted in no way on his own initiative. AS FOR WHAT APPEARS TO FAVOR GUIDON T.

[*Latin ed. p. 439*]

Availing himself of the weakness of mind of the Bishop, but having received jurisdiction by letters granted by the Chapter before the Ordinary became infirm, and in which the brother was constituted as another self. And although it is said that, through the intervention of the Bishop's coadjutor, several abilities ceased; nevertheless, since such an election constitutes a burden of the administration of the diocese, it could lawfully be carried out by the Bishop's brother under his mandate. Moreover, the Bishop's brother proceeded with his arguments in writing, in order to justify the election made by him, in the name of the Bishop. For, having spoken of all the circumstances that accompanied the dispute, he submitted the following: that Alexander C. had been admitted to the competition along with others from the town of Sangemini; however, the liberty of the Bishop did not suffer any detriment. Since, according to the Pontifical decree, it is within the power of the Bishop to choose whomever he wishes, without infringing justice. And this would be true even if there were differences in merit among the candidates, and the Bishop did not choose the more worthy one. And in this matter, he was not bound, by the aforementioned Pontifical decree, to anything other than to bear the expenses of a student from that town in the Seminary. This quality is clearly found in the young man Guidone T.; since he was born to parents who have always resided in that town. Nor did the same young man lack the suitability required by Trent, so that a dispensation would have to be sought with prejudice to others. For the Council of Trent, Session 23, chapter 18, concerning reforms, states: "The Holy Synod decrees that each Metropolitan Cathedral, and

Translated by churchlatin.ai, a product of Boyne Archives

those that follow, should..." Indeed, the young man had completed twelve years of age, which is the age limit required by Trent for one to enter the Seminary. Therefore, he also possessed the required age; so that it was not necessary to seek a pontifical dispensation, to the prejudice of other candidates who had already passed twelve years of age. However, whether the twelve years must be completed or merely begun was resolved by the Most Holy Congregation on June 10, 1876, in Utinen, concerning the age for admission to the Seminary, responding: "Those who are maintained at the expense of the Seminary can be admitted even in the beginning of the twelfth year; but the others are not included in the law of Trent." This reason was related on page 358.

[*Latin ed. p. 440*]

440 From the Decrees of the Councils of Bishops and Regular Canons, the greater Churches, according to the extent of their resources and dioceses, are obligated to nourish, and religiously educate, and instruct in ecclesiastical disciplines, the number of boys of the city itself and of the diocese of that province, if they cannot be found there, in a college established for this purpose near those churches, or in a suitable place chosen by the Bishop. In this college, those who have completed at least twelve years, and who are born of a legitimate marriage, and who know how to read and write competently, and whose character and will give hope that they will perpetually serve in ecclesiastical ministries, shall be received. However, the sons of the poor should be especially chosen, and yet the more wealthy are not excluded, provided they are supported at their own expense, and that they prefer the study of serving God and the Church. It is not to be considered a great matter that the deliberations of the representatives of the seminaries on this matter have not been carefully examined, as was noted in Trent. For this solemnity is neither substantial, nor are the clauses varied which would bring about the nullity of the proceedings. Indeed, the prescription of Trent is general, and the counsel is simple: chapter 18, session 23. All of these things, and others pertaining to this matter, the individual Bishops, with the counsel of two senior canons, and those whom they shall choose, according to what the Holy Spirit suggests, shall establish, and they will endeavor to ensure that these are always observed by frequently visiting. Furthermore, since Trent also spoke of poverty, the election of Guy T. did not, from this point of view, violate justice, since his father was burdened with a large number of children, and individually, the situation was not entirely without difficulty; and because the son is already staying in the seminary. To all of this must be added that the elector, provided he chooses someone worthy, is not obliged to prefer another who is more worthy, especially if the chosen one possesses qualities that are common by law or granted by a special foundation. Thus, Fargna, *Jurepat*, part 2, canon 27, and Piton, who provides a criterion in this subject matter, *disc. 30 de

Translated by churchlatin.ai, a product of Boyne Archives

controv. patron, num. 37*, state. "Thirdly, and more strongly..."

[*Latin ed. p. 441*]

441. "Because it is often said that the Founder, when Canons transgress the rules, 'did not impose the penalty of nullity on the act of election, but burdened their consciences'; hence it happens that, for the highest good, those who serve the Church after having disregarded the rules, must render an account in the forum of penance, and not in the external forum; as is the case in the instance mentioned, where, according to the strict judgment of the sacred canons, electors of the Church, even in simple benefices, and those who do not have the care of souls, are not permitted to present a worthy candidate, omitting, as it were, one who is notably more worthy, Cap. 2 De offic. Custod. etc., and this is commonly held by the Doctors of Theology after St. Thomas, 2, 2, quaest. 63, art. 1; nevertheless, both theologians and canonists agree that an election made of a less worthy candidate, omitting a more worthy one, is valid and not delayed."

Furthermore, it must not be omitted that, even in a formal concurrence of pastors and canons, the theological and penitential election is left to the prudent judgment of the Ordinary; who may grant the institution to a less worthy candidate among those approved by the diocesan examiners; as taught by Benedict XIV in De Synod. Dioec. lib. 4, c. 7, no. 8, and by the Sacred Congregation in several resolutions, but individually in Aversa, concerning the theological and penitential Canons, on November 21, 1821. On that occasion, the following question was proposed: "Whether the Bishop has the right to choose a candidate to fill the theological and penitential positions, even if he judges him to be more worthy than another among those approved in an informal concurrence; or rather, must he choose the one whom the Examiners have declared to be more suitable in the same concurrence?" And the answer to that question was: "affirmatively to the first part, negatively to the second part."

From this, it clearly follows that a stronger argument can be deduced in favor of the election of a cleric by the Bishop, with regard to the simple requirements: provided that the pastors and canons, as theologians...

[*Latin ed. p. 442*]

442 From the Sacred Congregation, concerning Bishops and Regular Canons, and concerning penitentiaries, greater consideration should be given to the candidates for the Seminary. FROM THOSE THINGS WHICH SEEM TO FAVOR ALEXANDER C. Nevertheless, the arguments which canonical jurisprudence offers in favor of Alexander C. should not be overlooked. This young man, the Coadjutor Bishop, by his merits, surpasses all the candidates; from which it would follow that he would be considered the more worthy to be chosen. Indeed, it was within the Bishop's power to choose a young man who was endowed with the

Translated by churchlatin.ai, a product of Boyne Archives

necessary qualifications; but when a public competition is held, with candidates notified of it, faith must be given, especially if there is a significant difference between the candidates. And in truth, even those authors who admit that less worthy candidates may be considered, nevertheless refer themselves to the prudent judgment of the elector, who ought to choose the more worthy according to his conscience; therefore, it is thus: But those who choose, omitting the more worthy without due cause, sin against distributive justice. St. Thomas in d. 2, 2, quaest. 63, art. 1, ad tert. Fagnanus in cap. Cum dilectus n. 18. To all of this must be added the Bishop's promise in favor of Alexander C., completed before the election of another, because of his superior merits. This promise did not obtain its fulfillment, as the Bishop's brother explained, because Alexander C. was born to a father from another town, lacking a stable domicile in the town of Sangemini. Indeed, the Coadjutor Bishop, as far as the facts are concerned, responded to this difficulty by stating that the young man's father had had two successive wives in the town of Sangemini, and had established his domicile there, where Alexander, about whom we are speaking, was born. As for the law, it is worth remembering I. 7, § 9, of the Code concerning inhabitants. - there: "Therefore, the Emperors Diocletian and Maximilian, in I. 7 of the Code concerning inhabitants, declared that inhabitants 'establish a domicile,' as did the blessed Adria[nus] in his edict, manifestly." And in the same place, it is stated that each person has a domicile.

[*Latin ed. p. 443*]

Section 443 is ambiguous, where one establishes the domicile, and the sum of possessions and fortunes, from which one cannot depart unless something distracts him. And Ulpian rightly stated in *Leges*, 20 *ff.*, ad municipal: "Domicile is transferred by residence and fact, not by mere declaration, so that it is demonstrated that the domicile, in the fact of establishing one's domicile, is consistent with the nature of the domicile; without this fact, it cannot be acquired." And it would seem superfluous to refer here to theories by which it is demonstrated that doctors, lawyers, and even servants can validly contract marriage before the parish priest of their actual domicile, except in the case where someone is staying there for the purpose of recreation. Therefore, if the father, Alexander C., had a permanent domicile in the town of Cariati, where he died, the son necessarily follows the paternal domicile (Benedict XIV, *Institutiones Eccles.*, 33, § 16). Furthermore, it seems correct to add that such theories refer to a more difficult case, namely, when the domicile is being sought; but in this matter, the student of that town is required, that is, the young man who was born in the town of Cariati. Even if one grants the favor of the inhabitants of that town, it must also be considered in relation to the family, so that the paternal domicile must be sought; however, from this it does not follow

Translated by churchlatin.ai, a product of Boyne Archives

that the father must derive his origin from the same town, unless this is expressly stated in a pontifical decree. Indeed, it is certain that, according to canonical and civil jurisprudence, there is a great difference between a generic term and a provision that limits, as Depretis, *De interp.*, ult. vol., lib. 4, dub. 8, n. 23, indicates. "And it is well known among prudent men the distinction between *Romano*, *Senese*, *Padovano* and another conception of the words, *Cittadino di Roma*, *di Siena*, *di Padova*, and that, while in the first formula a general and broader interpretation can be admitted, in the second, a local derivation is entirely required." And Riganti, *ad reg.*, 14 *Cancell.*, n. 149, states: "In favorable cases, the word *civis* must be maintained."

[*Latin ed. p. 444*]

444 From the Decrees of the Holy See concerning Bishops and Regular Canons, it extends even to those who have acquired citizenship by privilege: under a privilege that simply stipulates that benefices are to be conferred only upon citizens, not only original citizens, and those naturally such, but also citizens by privilege. Therefore, Alexander C. ought to have been preferred, rather than excluded, because of the promise previously accepted and the superiority of his merits. Consequently, it seems prudent to seek the counsel of the Examiners who have some part in the admission of young men, in order to resolve the difficulty more appropriately; as can be seen in Lucidi, volume 2, page 387, in the *Salernitana* concerning matters before the Holy Congregation regarding the assignment of deputies. The question had been asked: Should their counsel be applied both in establishing the general rules of the Seminary, and in the election of individual boys to be admitted, in the selection of books to be read, in the assignment of a confessor, in the punishment of misdeeds, in expulsion, in visitation, and in similar matters? The Holy Congregation responded: It should be applied in all things. With these reasons presented, which appear to favor both sides, the following doubts were submitted to the wise judgment of the Congregations. I. Whether and how the nomination of the young man Guidonis T. should be sustained in the case. And to what extent, negatively. II. Whether the young man Alexander C. should be chosen in the case of T., or rather, the young man...

RESOLUTION. The Holy Congregations of Cardinals and Bishops, after discussion, on June 2, 1876, judged it fitting to respond as follows: To I. Affirmative. To II. Provided for in the first.

[*Latin ed. p. 445*]

From the Sacred Congregation of the Index: Decree 445. THEREFORE, THE FOLLOWING MAY BE GATHERED.

I. A youth must have completed twelve years of age in order to be admitted to the Seminary, according to the Tridentine Council, Session 23,

Translated by churchlatin.ai, a product of Boyne Archives

chapter 18, concerning reforms.

II. It has been resolved by the most recent decree of the Sacred Congregation of the Council that a youth, to be maintained at the expense of the Seminary, does not necessarily need to have already completed twelve years, but it suffices that he has begun his twelfth year in order to be received into the Seminary.

III. An elector is not bound to choose the most worthy, provided that he chooses a worthy candidate, in whom are present the qualities prescribed by common law or by the special law of the foundation.

IV. Bishops also possess the faculty, among those approved, to choose for the theological or penitential [studies], or even for the parish, the one whom they judge to be more worthy, setting aside the one whom the examiners have declared to be more suitable.

V. In this matter, it does not appear that any other burden was imposed upon the Bishops of N. by the pontifical chirograph [letter], than that they should maintain, at their own expense, a student in the Diocesan Seminary of the town of Sangemini, to be designated by the Bishop for the time being.

FROM THE SACRED CONGREGATION OF THE INDEX: DECREE. Tuesday, the 4th of September, 1876. The Sacred Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Pope Pius IX and the Holy Apostolic See, concerning the Index of books of pernicious doctrine, to wit:

[*Latin ed. p. 446*]

446 From the Sacred Congregation of the Index, and with the unanimous consent of the superiors and delegates, having been held in the Apostolic Palace at the Vatican on the 4th of September, 1876, the following works were condemned, and it was ordered that they be placed on the Index of Prohibited Books:

* *Cartas inéditas de Don Julian Sanz del Rio*, published by D. Manuel de la Revilla, Madrid (without date). Casa editorial de Medina y Navarro. — In Latin: *Litterae ineditae D. Julian Sanz del Rio, editae a D. Emmanuele De La Re villa. Matriti etc.*

* *Los Conflictos entre la Ciencia y la Religion*, by J. W. Draper, Professor at the University of New York, Madrid, Biblioteca contemporanea, 1876. — In Latin: *Conflictus inter scientiam et religionem, auctore J. W. Draper etc. Matriti 1876.* In whatever language.

* *A Luz e as trevas, sermâo de Espirito Santo pregato na* matriz da citade de Jundiahy, em 17 de maio do corrente anno, pelo Dr. Joaquim de Monte Carmelo conego da Sê de S. Paulo. Rio de Janeiro, typ. de Brown et Evaristo 12 Rua do Senado 12, 1875. — In Latin: *Lux et tenebrae, concio de Spiritu Sancto recitata in primaria Ecclesia Urbis Jundiahyae (in Brasilia) die 17 maii huius anni, a Doctore Ioachimo de Monte Carmelo canonico

Translated by churchlatin.ai, a product of Boyne Archives

Cathedralis Ecclesiae S. Pauli etc.*

* *Die Trinitarische Lehrdifferenz zwischen der abendländischen und der morgenländischen Kirche. Eine dogmengeschichtliche Untersuchung*, by Dr. Joseph Langen, etc., Bonn, 1876. — In Latin: *De differentia doctrinali quoad Trinitatem inter Ecclesiam occidentalem et orientalem. Disquisitio historico-dogmatica, auctore Dr. Iosepho Langen etc. Bonnae 1876.*

These works are condemned according to Regulation II of the Tridentine Index.

[*Latin ed. p. 447*]

From the Sacred Congregation for the Propagation of the Faith – Decree 447. Therefore, no one, of whatever rank and condition, may dare to publish, or, having published, to read or retain the aforementioned works, in any place, and in any language; but they shall be obliged to deliver them to the Ordinary of the place, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books. These matters, having been related to me, the undersigned Secret Agent, were approved by His Holiness, Pope Pius IX, and He commanded that this Decree be promulgated. In witness whereof, etc. Given in Rome on the 5th of September, 1876. Anthony Cardinal De Luca, Prefect. Father Jerome Pius Saccheri, of the Order of Preachers, Secretary of the Congregation of the Secret. L-©S. On the 11th of September, 1876, I, the undersigned, Master of the Curia, testify that the aforementioned Decree was affixed and published in the City. Philip Ossani, Master of the Curia. FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, DECREE: CONCERNING THE ESTABLISHMENT OF AN APOSTOLIC PREFECTURE IN INDIAN TERRITORY. Since the Sacred Congregation, judging that it will greatly contribute to the spreading of the Christian name and to the promotion of the Catholic religion in the territory of the Indians, commonly called "Indian Territory," in the United States of North America, if an Apostolic Prefecture were established there...

[*Latin ed. p. 448*]

448 From the Sacred Congregation for the Propagation of the Faith, it is to be defended, in the general assembly held on May 8, 1876, that it be requested of the Most Holy Father that this Prefecture Apostolic be named from the aforementioned territory, and that, according to the civil boundaries by which the same territory is circumscribed, it be established, and that the Brothers of Monte Cassino, of the Order of Saint Benedict, of the primitive observance, of the province of France, be entrusted with it.

— The aforementioned judgment of the Sacred Congregation, reported to the Most Holy Father, our Lord Pope Pius Divine Providence IX, in an audience on the aforementioned day of the month and year, by the undersigned Secretary, was benignly approved by His Holiness, and the present

Translated by churchlatin.ai, a product of Boyne Archives

Decree was ordered to be issued concerning this matter. Given in Rome, from the offices of the Sacred Congregation for the Propagation of the Faith, on July 5, 1876. ALEXANDER CARDINAL FRANCHI, Prefect. L. gg S. I. B. AGNOGGI, Secretary.

DECREE. WHEREBY FATHER ISIDORE RABOT, PREFECT OF THE MISSIONS OF THE INDIAN TERRITORY, IS DISPENSED.

Referring to the Reverend Monsignor Achille Rinaldini, Substitute, the Sacred Congregation dispenses Father Isidore Rabot, of the Cassinese Congregation of the primitive observance, from the duties and with the authority pertaining to the governance of the aforementioned Missions, according to the prescriptions of the Decrees of the Sacred Congregation and the faculties granted to him, and in no other way.

Given in Rome, from the offices of the aforementioned Sacred Congregation, on July 9, 1876. ALEXANDER CARDINAL FRANCHI, Prefect. L. © Monsignor Achilles Rinaldini, Substitute.

[*Latin ed. p. 449*]

APOSTOLIC LETTERS: LETTERS BY WHICH THE MISSION OF BENGAL ORIENTAL IS TRANSFERRED TO THE CONGREGATION OF BENEDICTINES OF MONTE CASSINO, OF THE PRIMITIVE OBSERVANCE, PROVINCE OF ANGLO-BELGIUM. PIUS IX. FOR THE SAKE OF FUTURE MEMORY.

Since it seemed most fitting for the good of the Church, the region of Bengal Oriental in India was erected into an Apostolic Vicariate in the year 1850, by our authority, and its administration was entrusted to the care of the Congregation of Priests of the Holy Cross. However, as time passed, the number of workers of that Congregation diminished, and in the general chapter of the same year, 1871, a decree was issued by which they renounced the charge of governing the aforementioned Mission; this was presented to Us for confirmation. At that time, the Anglo-Belgian Province of the Benedictines of Monte Cassino, of the Primitive Observance, was canonically established in England. Therefore, concerned for the good of the Apostolic Vicariate, which We have described, We consulted with Our Venerable Brothers, the Cardinals entrusted with the affairs of the Propagation of the Faith, together with the General Superior of the aforementioned Province, so that, in place of the Priests of the Holy Cross, that Vicariate might be cultivated by them. And after the General Superior accepted the request made to him, with the counsel of the same Venerable Brothers, We have decided to establish the following, which are written below. By these present letters, We grant the prayers of Our beloved sons, the Priests of the Congregation of the Holy Cross, and We declare them released from the burden of governing the Mission of Bengal Oriental, by Our Apostolic

Translated by churchlatin.ai, a product of Boyne Archives

authority; this is recorded in the Acts, volume IX, page 50, number 29.

[*Latin ed. p. 450*]

From the Sacred Congregation for the Propagation of the Faith, 450! Furthermore, We assign and impose upon the Congregation of the Benedictines of the Primitive Observance, Province of Anglo-Belgium, with the approval of this Holy See, and subject to all the conditions previously stipulated, the Oriental Bengal Mission, of which We have spoken above, to be administered by the Congregation of the Holy Cross. - At the same time, We decree that these Our Letters shall be firm, valid, and efficacious, and shall have their full and complete effect and obtain their intended purpose, and shall fully prevail in all respects and through all things, unless otherwise provided by Us or Our Successors; and that in all matters concerning these things, any delegated judges, even the Auditors of the Apostolic Palace, must judge and decide, and that they must declare invalid and void any attempt to alter these matters in any way, knowingly or unknowingly. Without prejudice to the fact that it is necessary, according to Our and the Apostolic Chancery's rule concerning matters of law, and to other Apostolic, general or special, universal, provincial, and synodal Constitutions and Ordinances, as well as the statutes and customs of the aforementioned Mission, which have been strengthened by an oath, Apostolic confirmation, or any other form of validation, and to all other contrary things whatsoever. Given at Rome, near Saint Peter, under the Fisherman's Ring, on the fourth day of August, 1876, in the thirty-first year of Our Pontificate. 1! F. Card. ASQUINIUS. L. © S.

[*Latin ed. p. 451*]

Apostolic Letters 451. APOSTOLIC LETTERS WHEREBY GUDBERT DOWN IS APPOINTED APOSTOLIC PROVICAR FOR THE MISSION OF EASTERN BENGAL. PIUS PP. IX. TO HIS DEAR SON, GUDBERT DOWNEY, PRIEST OF THE CONGREGATION OF THE BENEDICTINES OF THE ORIGINAL OBSERVANCE OF CASSIN. DEAR SON, GREETINGS AND APOSTOLIC BENEDICTION. The care of the entire Church, divinely entrusted to Us, demands that We perform those things which appear to be for the good, prosperity, and happiness of the faithful. Since, therefore, We have learned of the resignation of the Venerable Brother Peter Dufal, Bishop of Delcon, in the lands of the infidels, and the Mission of Eastern Bengal is vacant, We have brought the matter before Our Venerable Brothers, the Cardinals of the Congregation for the Propagation of the Faith, and We have diligently deliberated with them concerning the selection of a successor. After mature and careful consideration of all things, We have come to the decision that We should entrust the administration of that Mission to you, dear Son, being certain that you will fulfill the duties of this office to the full extent of Our expectations.

Translated by churchlatin.ai, a product of Boyne Archives

Therefore, in order that you may be absolved from any excommunications, interdicts, or other ecclesiastical sentences, censures, and penalties, of any kind or for any reason, if you should have incurred them, We hereby, for this very purpose, absolve you, and We declare you to be absolved. By these Letters, with the authority of Our Apostolic See, and with the advice of the Venerable Brothers, We hereby appoint you, constitute you, and nominate you as Apostolic Proicar for the Mission of Eastern Bengal; and We grant you, therefore, all the faculties necessary and appropriate for that purpose, by the same authority.

[*Latin ed. p. 452*]

452 From the Sacred Congregation of Rites, we impart the following decree. Wherefore, to all and each to whom it pertains, and whom we command, that you receive, admit, and favor him, and assist and obey him to the extent that it is within your power, as Vicar Apostolic of the aforementioned Eastern Bengal Mission. This is to be done in accordance with the tenor of the present document, notwithstanding any special license or individual circumstances that may be worthy of consideration to the contrary. Given in Rome, at St. Peter's, under the seal of the Fisherman, on the 28th day of July, 1876, in the thirty-first year of Our Pontificate. F. Card. ASQUINIUS. L. © From the Sacred Congregation of Rites, a decree concerning the Beatification and Canonization of the venerable Servant of God, Francis Mary Paul Libermann, Founder of the Congregation of the Most Pure Heart of Mary. On the ninth of February and the fourth of March, in the year 1874, when Our Most Holy Lord Pope Pius IX benignly ordered that the case of the Servant of God, Francis Mary Paul Libermann, aforementioned, be considered in the Ordinary Congregation of Sacred Rites, without the intervention or vote of the Consultors, even though less than ten years had elapsed since the presentation of the Ordinary Process; We, and the Most Reverend Cardinal Aloisius Oreglia di S. Stefano, in the place and stead of the Most Reverend Cardinal Capalti, Promoter of the Cause, at the request of the Reverend Father Alphonsus Eschbach, a member of the aforementioned Congregation.

[*Latin ed. p. 453*]

The Decree 453 of the Congregation and the Postulator of Causes, containing the letters of certain Cardinals of the Holy Roman Church, as well as numerous Archbishops and Bishops, and other men distinguished by ecclesiastical and civil dignity, who were assembled today in the Ordinary Sessions of the Sacred Rites at the Vatican, proposed the following question for discussion: Whether a Commission for the Introduction of this Cause should be signed in this case and for the purpose in question? And the aforementioned Sacred Congregation, after mature deliberation and having heard the voice and the written opinion of the Reverend Father

Translated by churchlatin.ai, a product of Boyne Archives

Lawrence Salvati, Promoter of the Holy Faith, decided to respond: Affirmative, that is, the Commission should be signed, if it pleases the Most Holy [Father]. On May 27, 1876. Subsequently, a faithful report on the aforementioned matters was made to the Most Holy Lord Pope Pius IX by the undersigned Secretary. His Holiness approved and confirmed the judgment of the Sacred Congregation, and with his own hand signed the Commission for the Introduction of the Cause of the Venerable Servant of God, Francis Mary Paul Libermann, aforementioned. On June 1st of the same year. C. Card. PATRIZI, Bishop of Ostia and Velletri, Prefect of the Sacred Congregation. L. © S. Placidus Ralli, Secretary of the Sacred Congregation.

[*Latin ed. p. 454*]

From the Sacred Congregation of Rites, Decree 454, concerning Oceania. Regarding the beatification or declaration of martyrdom of the Venerable Servant of God, Peter Aloysius Mary Chanel, Apostle of Western Oceania. In the cause for the beatification or declaration of martyrdom of the aforementioned Venerable Servant of God, since the matter concerned the validity of the proceedings, and also obedience to the decrees of His Holiness Urban VIII concerning the cult never exhibited to the aforementioned Venerable Servant of God, the Reverend Doctor Benedict Forestier, a member of the Marist Congregation and Postulator of this cause, submitted the following question for discussion at the Ordinary Sessions of the Sacred Rites Congregation held today in Vatican: namely: "Whether it can be established regarding the validity of the proceedings, and also regarding obedience to the decrees of His Holiness Urban VIII concerning the cult never exhibited to the aforementioned Venerable Servant of God, in the case and to the effect of what is being considered?" Furthermore, the Most Eminent and Reverend Fathers presiding over the Sacred Rites, after a careful examination of all matters, and after hearing the voice and written opinion of the Reverend Father Lawrence Salvati, Promoter of the Holy Faith, decided to respond: "Affirmatively regarding the proposed questions, and in accordance with the understanding that it is necessary to request that the authentic documents, which are held as part of the Ordinary proceedings of the year 1857, be considered as equal in probative value to the Apostolic proceedings." On May 27, 1876. The aforementioned matters were reported to the Most Holy Lord, our Pope Pius IX, by the undersigned Secretary of the Sacred Congregation, and His Holiness...

[*Latin ed. p. 455*]

The Apostolic Letters, numbering 455, have deigned to ratify and confirm the judgment of the Sacred Congregation, and have granted permission that the documents mentioned above be considered to have equal validity with the Apostolic Process. On the 5th of June, in the same year.

Translated by churchlatin.ai, a product of Boyne Archives

Cardinal PATRIZI, Bishop of Ostia and Velletri, Sacred Roman College, Prefect. S. Placidus Palli, Sacred Roman College, Secretary. FROM THE VATICAN. APOSTOLIC LETTERS. WHEREBY THE ZEAL OF THE BISHOP OF VIGEVANO IS COMMENDED REGARDING THE DIOCESAN SYNOD HELD BY HIM. PIUS IX, to our beloved sons, greetings and apostolic blessing. The Synod itself, as you have written in your letters, has added no small merit to your endeavors. For if it has always been useful for the clergy to convene from time to time to strengthen the bonds of mutual charity, and to deliberate on discipline and on matters concerning the Church, it is now all the more opportune, and indeed necessary, when all arts are employed to divide minds, to draw the clergy away from their proper Pastor and from the people to the clergy, to undermine the laws themselves and the very constitution of the Church, and to completely dissolve unity. Therefore, we commend your excellent Bishop and you, for having gathered counsel and strength to confront this [situation].

[*Latin ed. p. 456*]

456 From the Vatican, with the passage of time, we have especially observed that you strive to confirm your adherence and devotion to this Apostolic See, the center of Catholic unity, from which, as from a head, virtue and strength flow into the entire mystical body of Christ. Therefore, we were most pleased to learn that your Pastor has openly declared that he has summoned you above all else to be more closely united with the Holy Apostolic See and the Supreme Pontiff of the Church of Christ; and that you have responded to his desire, so that in the following session you have unanimously professed that nothing could be more sacred to you than to proclaim the Roman Church as the mother of all, and to venerate the Roman Pontiff, the successor of Peter, as father and universal teacher of the flock of Christ, of sheep and shepherds alike, and to always hold as definitive the oracles and definitions of the Holy Spirit, and to detest all errors which He has condemned and anathematized. Indeed, beloved sons, if you persevere in this noble purpose, if you strive to conform your thoughts and actions to this standard, then certainly no deceit, no force, will ever be able to shake or overcome you, so firmly founded as you are on the firm rock of Christ. More dangerous, it seems, are the times that are approaching; and therefore, we earnestly implore you, as we ask for heavenly help and abundant heavenly gifts, to maintain constancy in this most salutary plan. As a pledge of divine favor and of our paternal benevolence, we impart to you all, beloved sons, the apostolic blessing with all our heart. Given in Rome, at St. Peter's, on the 4th of September, in the thirty-first year of Our Pontificate. PIUS IX, POPE.

[*Latin ed. p. 457*]

FROM THE CONSISTORY ACTS, FROM THE CONSISTORY PROPOSI-

Translated by churchlatin.ai, a product of Boyne Archives

TIONS. September 29, 1876. The Most Holy Lord, in the Consistory held on September 29th in the buildings of the Vatican, proposed the following sees: THE ARCHIEPISCOPAL CHURCH OF HELIOPOLIS, under the Patriarch of Antioch, in the lands of the infidels, vacant due to the death of the Most Reverend Father Francis Piohi, the last Archbishop, who died outside the Roman Curia: The Most Holy Lord transferred to this same Church, the Reverend Father Aloysius Paggi, whose qualities have been approved by the Apostolic Holy See, who, since October of the year 1871, was prefect of the Church of Rimini. Heliopolis, a city in Coele-Syria, near Lebanon, surrounded by the highest mountains, is still held by the infidels; therefore, its condition is most miserable. THE METROPOLITAN CHURCH OF SENA, vacant, due to the death of the Most Reverend Father Henry Bindi, the last Archbishop, who died outside the Roman Curia: The Most Holy Lord transferred to the aforementioned Church, the Reverend Father John Pierallini, whose qualities have been approved by the Apostolic Holy See, who, since December of the year 1871, was prefect of the Church of Colle di Val d'Elsa. Sena, which is now Siena, a large and famous city of Etruria, built within the hills not far from the Arno River, has a circumference of about six Roman miles, and includes more than four thousand houses, and twenty-five thousand Catholic inhabitants. The Metropolitan Church, a notable Gothic structure, boasts the title of the Assumption of the Blessed Virgin Mary, and requires no repairs, and four Bishops are subject to it. Its Chapter includes six dignities, of which the first, after the pontifical, is the Deanery, then one and twenty Canons with a theologian and a penitentiary, twenty Beneficiaries, twelve Mansionary Chaplains, and other priests and clerics who serve in the divine ministry.

[*Latin ed. p. 458*]

458 From the Consistorial Records held by the Chapter, it is known that the parish priest currently exercises the habitual care of souls in the crypt of the church of Saint John the Baptist, where a unique baptismal font is preserved, not only within the city but also in its suburbs. Furthermore, the metropolitan church is richly furnished with all the sacred vessels necessary for the performance of divine services and pontifical functions, and it also contains several notable relics of the Saints, especially the arm of the illustrious Precursor, Saint John the Baptist. Twenty-three parish churches are also listed, lacking a baptismal font, among which is the distinguished Collegiate Church of Saint Mary, commonly known as "de Provenzano," as well as several monasteries of men and four of women, numerous lay sodalities, several other pious institutions, the noble Ptolomaean college, a hospital, a university, a pawnshop, and a prominent seminary. The territory of the Archdiocese extends to nearly twenty-five miles and encompasses numerous places. The METROPOLITAN CHURCH OF SALZBURG is vacant, following the death of the Most Reverend Maximilian, who, while alive,

Translated by churchlatin.ai, a product of Boyne Archives

was the last Cardinal Priest of Tarnoczy of the Holy Roman Empire, and who died outside of Rome. The Most Holy [Pope] confirmed and promoted to that same Salzburg the Reverend Father Franciscus de Paula Albertus Eder, born of legitimate, Catholic, and honorable parents in the city of Hallein within the Salzburg Archdiocese, and who had surpassed his fiftieth year. He was admitted to the Order of Saint Benedict in the monastery of Saint Peter near Salzburg, where he took his solemn vows, and who, having been raised to the sacred priesthood some time ago, showed himself lacking in aptitude for ecclesiastical functions. In that monastery and in the abbatial parishes, he was appointed Professor in the Imperial-Royal Salzburg Gymnasium, for the teaching of religion, as well as for philological and philosophical disciplines. Having obtained the degrees of Doctor of Liberal Arts, Philosophy, and Sacred Theology, he then resigned from his position as Abbot of the same monastery of Saint Peter, and was subsequently decorated with the title of Ecclesiastical Counselor by the aforementioned Archbishop of Salzburg. Salzburg, a city of the same name, is the capital of the province, built on the Salzach River, and situated in a very pleasant location, although surrounded by mountains. It is a large city, containing over nine hundred houses, and is inhabited by approximately twenty thousand Christians, under the temporal dominion of the Most Serene Emperor of Austria. The Metropolitan Church of Saints Rupert and Virgilius, Bishops...

[*Latin ed. p. 459*]

The consistorial acts number 459, boasting a magnificent and splendid building, which requires no repairs, and is served by six bishops. Four offices, the first of which, after the pontifical office, is that of a Provisor, constitute its Chapter. Eight canons are also listed, along with a theologian and a penitentiary, to which are added two female religious and ten vicars, as well as other priests and clerics serving in the divine offices. Through a canonical chapter, assisted by coadjutors, the care of souls is exercised in the metropolitan area itself. Furthermore, four other parish churches are found in the city of Salzburg, equipped with baptismal fonts, as well as three monasteries for men and the same number for women, several lay sodalities, five hospitals, a pawnshop, and two seminaries. The territory of the archdiocese extends quite widely, encompassing many places and more than one hundred and eighty parishes.

The METROPOLITAN CHURCH of St. James in Venezuela, located in South America, was vacant, having been relinquished by the Reverend Father Sylvester Guevara at his own request and with great willingness, and was thus placed in the hands of His Holiness, who appointed the Reverend Joseph Anthony Ponte, born of legitimate, Catholic, and honorable parents in the city of Cabudane, in the diocese of Barquisimeto, and having already surpassed his fortieth year of age. He had previously received the doctorate

Translated by churchlatin.ai, a product of Boyne Archives

in sacred theology and was ordained a priest. This archpriest, who also served as a secretary at the Vatican Council and in the Apostolic Vicariate, and who filled the positions of rectors in the archdiocesan seminary and in Valencia at the Carmelite college. He also resigned from his positions as professor of Latin, French, and the vernacular language; of philosophy, canon law, and sacred history; and of moral and dogmatic theology at the seminary and college in the city of Tocuyo, and at the central university of Caracas.

Located on the northern coast of South America, within the jurisdiction of the state of Bolívar, is the city of St. James of Caracas, also known as Venezuela, the capital of the eponymous republic, built on the slopes of the mountains. It contains more than eight thousand houses within its vast area and is inhabited by approximately fifty thousand citizens. The metropolitan church, a decent and spacious building, is dedicated to the title of St. Anne, Mother of the Blessed Virgin Mary, and to St. James the Apostle, and is served by four bishops. Its Chapter includes three offices, the first of which, after the pontifical office, is that of the Dean.

[*Latin ed. p. 460*]

460 From the Consistorial Acts, the same number. There are eight portioners, chaplains, or beneficed priests, and other priests and clerics serving the divine ministry. The parish priest exercises the care of souls within the metropolitan church itself. Furthermore, six other parish churches are found in the city of Venezuela, equipped with baptismal fonts, and two are dependent, along with several lay sodalities, and five hospitals; monasteries, a house of mercy, and a seminary-college are lacking. The territory of the archdiocese extends to one hundred and fifty leagues, encompassing several cities and towns. The EPISCOPAL CHURCH of Dorea, located in a region certainly subject to non-believers, was assigned on December 14, 1875, by the Apostolic See, through the document "Ad Apostolicam Beati Petri Cathedram." A Priory of the Four Military Orders of St. James of Alcantara, Calatrava, and Montesa was established by His Holiness in the city of Clunia, "Ciudad Real," and the church of Dorea was permanently united to it, having been vacant since its original founding. The Most Holy See then transferred to the same church in Dorea, which is located in a region subject to non-believers, and elevated the Reverend Father Victoriano Guisasola and Fernandez to the position of Prior, whose qualities had been approved by the Apostolic See, having previously been the prefect of the Teruel church in January 1874. The city of Dorea, an episcopal city in Palestine, under the Caesarean Archbishop, is still under the power of non-believers; therefore, its miserable condition is passed over in silence. Clunia, where the seat of the aforementioned Priory is located, is the capital of the homonymous province, built in a fertile plain near the Anas River, and is inhabited by over nine thousand people under the temporary dominion of

Translated by churchlatin.ai, a product of Boyne Archives

the Most Serene King of the Catholics. The parish church, quite beautiful and elegant, is dedicated to the Blessed Virgin Mary, Mother of God, and was elevated to the honor of the Priory according to the aforementioned Apostolic Letters, retaining its ancient title and parish status; it belongs to no diocese and is immediately subject to the Apostolic See. The Priory Chapter, according to the aforementioned Apostolic Letters, must number five dignities, of which the first, after the Prior, is the Dean, then four canonries, two of which are held by theologians and penitentiaries by office, and eight by grace, and twelve beneficed or chaplains for divine service. The parish priest, as before, exercises the care of souls within the church of the Priory. Three other parish churches are counted in Clunia, equipped with baptismal fonts.

[*Latin ed. p. 461*]

From the consistorial decrees, number 461, which provides the resources, there is a monastery for women, and a hospital; but a house of piety and a seminary are lacking. This Priory encompasses the entire territory of the civil province of Cluny, and includes several places, including the hospital of Almadén. The CATHEDRAL CHURCH OF ARIMINUM was vacant, and through the translation of the Reverend Father Aloysius Paggi to the Archiepiscopal Church of Heliopolis, in the lands of the infidels, the Most Holy Father transferred the Reverend Father Aloysius Raphael Zampetti to the aforementioned Church, whose qualities had been approved by the Apostolic See, having previously been prefect of the Churches of Calliensi and Per<mlanae, united together perpetually from last July. The city of Ariminum, well-known and elegant, located in Aemilia on the Adriatic coast, has a circumference of about three miles, contains approximately three thousand houses, and together with its suburbs, has more than twenty thousand inhabitants. The Cathedral Church is dedicated to Saint Columba, Virgin and Martyr, and formerly a church of Saint Francis, which had been completely destroyed by the ravages of time, was replaced, retaining its ancient title, where divine services are performed. The church itself offers a sufficiently spacious and fitting building, and serves the Archbishop of Ravenna. Its Chapter includes two dignities, of which the first, after the pontifical, is the Praepositus; fourteen Canons, with a theologian and a penitentiary; six Mansionaries, who are called the singers of the Mass; eight other Beneficiaries and Chaplains, and other priests and clerics who serve in the divine ministry. Through one of the Canons, the care of souls is exercised in the church itself. Eleven other parish churches are found in Ariminum and its suburbs, lacking a baptismal font; there are four monasteries of men, a society of priests of the Precious Blood, a conservatory, an orphanage, a hospital for penitent women, several lay sodalities, a hospital, a house of piety, and a seminary. The territory of the diocese extends to approximately

Translated by churchlatin.ai, a product of Boyne Archives

thirty miles, and includes, in addition to the city of Saint Archangel, several other places, and has approximately ninety thousand inhabitants. The CATHEDRAL CHURCHES OF CALMEN and PERGULAN are perpetually and canonically united, and through the translation of the Reverend Father Aloysius Raphael Zampetti to the Cathedral See of Ariminum, the Most Holy Father transferred the Reverend Father Joachim Cantagalli from the aforementioned to the aforementioned churches.

[*Latin ed. p. 462*]

46 2. From the Catholic Consistorial Acts, and being born of honest parents in Faenza, and having surpassed the fifty-first year of his age, he received the degree of Bachelor in Sacred Theology and Civil Law. The cities of Cale, or Callium, Cagli, and Pertia, Pergola, located in Umbria near the Apennine Mountains, in the territory of Urbino, are found there; the first, built on a plain near the river Cantianus, where it receives the Boas, has a circumference of about one Roman mile, and includes about six hundred houses and nearly four thousand inhabitants; the second, built near the river Cesana, contains about five thousand inhabitants. The Cathedral Church of Callium, dedicated to the Assumption of the Blessed Virgin Mary, and the church of Pergola, dedicated to the Martyr St. Secundus, the patron of that city, are suffragan to the Archbishop of Urbino. The Chapter of Callium includes two dignitaries, twelve canons, four officials, and several chaplains; the Chapter of Pergola consists of five dignitaries, thirteen canons, and six officials; both also have a dignity superior to the pontifical one, theological and penitential benefices, and other priests and clerics who attend to divine offices. The pastoral care of souls in the Cathedral of Callium is exercised by a perpetual vicariate, assisted by a removable priest at the will of the bishop. Furthermore, there is a parish church in Callium without a baptismal font, and four parishes in Pertia, two of which have a baptismal font; both also have four monasteries for men, and two for women, several lay sodalities, a hospital, a pawnbroker's, and a seminary; Pertia also has an orphanage, and an institution for boys, and Callium has a conservatory. The united dioceses extend for more than thirty Roman miles, and contain many other places.

The CATHEDRAL CHURCH OF COLLEN is vacant, and through the translation of the Reverend Father John Pierallini to the Metropolitan See of Siena, the Most Holy [Pope] promoted the Reverend Marcel Mazzanti to it, born of legitimate, Catholic, and honest parents in the parish of Explanans, in the municipality of Monti Caroli, in the diocese of Pescia, and having surpassed the forty-fifth year of his age. He received the degree of Bachelor in Sacred Orders, and later a doctorate in Sacred Theology, and in Canon Law. He is a Professor of Sacred Scripture at the University of Pisa, and

Translated by churchlatin.ai, a product of Boyne Archives

Moderator of the seminary in Mutilano, and Vicar of that diocese.

[*Latin ed. p. 463*]

From the consistorial records, number 463, the General and Official duties pertaining to the spiritual matters have, up to the present time, been fulfilled. The city of Colle, in Etruria, located in the territory of Siena, near the sources of the Elsa River, is built partly on the plain and partly on the mountain. Within its circumference of approximately three Roman miles, it contains nearly one thousand two hundred houses, and more than five thousand inhabitants. The Cathedral Church, dedicated to Saint Martin, a martyr, bears this glorious title, and serves as a suffragan to the Archbishop of Florence. Its Chapter includes three dignitaries, after the pontifical office, the highest being the Archdeaconate; fifteen Canons, including a theologian and a penitentiary; six Beneficed Chaplains, called Choristers; and other priests and clerics who serve in the divine ministry there. Through the third dignity, that of Archpriest, the care of souls is exercised within the Cathedral itself. In addition to the Cathedral, there are four parish churches in the aforementioned city, three monasteries for men, and one for women; there are also several lay sodalities, a hospital, and a seminary; but a house of piety is lacking. The extent of the diocese reaches approximately thirty Roman miles and includes numerous towns, and more than eighty parishes.

The CATHEDRAL CHURCH OF TERUEL, to which, by Apostolic Letters entitled "Ad Vicariam," dated the ninth of September, 1851, the Albarracinensis Church will be united, is vacant, due to the transfer of the Reverend Father Victor Guisasola and Fernandez to the Episcopal Church of Doren, in lands among the infidels, with a perpetual annexed Priory of the Four Military Orders, recently established in the Cluniac province. The Most Holy Father, upon the presentation of the Most Serene King of the Catholics, appointed the Reverend Father Francis of Paula Moreno and Andreu, born of legitimate, Catholic, and honorable parents in the city, commonly called Purchena, in the Almeriensis diocese, and who had surpassed the age of seventy, to the aforementioned Church. He had previously received the order of priesthood and the doctoral degree in sacred theology. Teruel is a city in Aragon, and the capital of the province of Teruel, built near the Turia River, where it receives the Alhambra, and contains one thousand six hundred houses, and, including the suburbs, is inhabited by approximately two thousand families, or eleven thousand citizens, under the temporary dominion of the aforementioned Most Serene King. The Cathedral Church is dedicated to the Most Blessed Virgin Mary, assumed into heaven, and to the Virgin and Martyr Saint Emerentiana, and is the

Translated by churchlatin.ai, a product of Boyne Archives

patron saint of the city.

[*Latin ed. p. 464*]

"1. 464. From the Acts of the Consistory, it derives its title, and it is a suffragan to the Archbishop of Caesaraugusta. Its chapter numbers five dignities, after the pontifical office: first, the Dean; then, four canons by office, along with a theologian and a penitentiary; seven canons by grace; and twelve beneficed positions. The care of souls in the cathedral is exercised by a vicariate. Four other parishes are mentioned, each with a baptismal font; three monasteries for women; a lay sodality; two hospitals; and a seminary; but a house of piety is lacking. The extent of the diocese is quite broad, encompassing many places. The CATHEDRAL CHURCH of Funchal is vacant, having been transferred by the Most Reverend Father D. Ayres d'Ornellas de Vasconcellos to the Metropolitan See of Goa. The Most Reverend Father Emmanuel Augustine Barreto was born in the place commonly called Pedrogam Grande, in the diocese of Coimbra, from legitimate, Catholic, and honorable parents, and in the forty-first year of his age, he was instituted. Having previously received the degree of Bachelor in sacred theology and the order of the priesthood, he has diligently performed ecclesiastical functions. He was chosen as Professor of Theology in the seminary of Lamacensi, and he has thus far renounced the position of Canon in the cathedral; he is presently among the Domestic Prelates of His Holiness. He has also served as Provisional General Vicar for spiritual matters and as Governor of the same diocese of Lamacensi until now. Funchala is a city and the capital of the island of Madeira, located south of the Atlantic Ocean, and it enjoys a very healthy climate. It contains nearly four thousand houses, and, including the inhabitants of the neighboring island of Porto Santo, it has approximately one hundred and fifty thousand citizens under the temporary dominion of the Most Serene King of the Catholics. The Cathedral Church, dedicated to the Assumption of the Blessed Virgin Mary, boasts a Gothic structure that is elegant, but requires some repairs, and it is a suffragan to the Patriarch of Lisbon. Its chapter should number five dignities, after the pontifical office: first, the Dean; then, twelve canons, including a theologian and a penitentiary; ten beneficed chaplains; and other priests and clerics who dedicate themselves to the work of God. The care of souls in the cathedral is exercised by two parish priests."

[*Latin ed. p. 465*]

From the 465 consistorial propositions, three others are noted: three parish churches equipped with baptismal fonts, three monasteries of women, several lay sodalities, two hospitals and a seminary; but a house of piety is lacking. The territory of the diocese encompasses the entire island of Madeira and another from Porto-Santo, and there are various towns and parishes located there.

Translated by churchlatin.ai, a product of Boyne Archives

The CATHEDRAL CHURCH of Emerita, in South America, is vacant, due to the death of the Most Reverend John Hilary Boset, the last bishop of that see, who died outside the Roman curia. The Most Holy Father promoted to that church the Most Reverend Thomas Zerpa, born of legitimate, Catholic, and honorable parents from Emerita, and established in the fiftieth year of his age. He has fulfilled the duties of Vicar Capitular and governor of the diocese. Emerita is a city and the capital of the territory of Guzman, in the Republic of Venezuela in South America, with a circumference of approximately one league, containing more than seven hundred houses, and inhabited by nearly twelve thousand citizens. The Cathedral Church, a sufficiently large and modern building, bears the title of the Immaculate Conception of the Blessed Virgin Mary, requires no repairs, and is suffragan to the Archbishop of Saint James of Venezuela. Its chapter consists of one dignitary after the pontifical dean, four canons with a theologian, but without a penitentiary canon, two prebendaries, four chaplains, and other priests and clerics serving in the divine ministry. The care of souls in the Cathedral is exercised by a parish priest. In addition to the Cathedral, there are four parish churches equipped with baptismal fonts in that city, and five others, one lay sodality, and two hospitals; monasteries, a college-seminary, and a house of piety are lacking. The territory of that diocese is extensive, encompassing several cities and towns.

The CATHEDRAL CHURCH of Ibaren, in the territory of Ecuador in South America, is vacant, due to the voluntary and willing resignation of the Most Reverend Anthony Thomas Yturralde, which was carried out by His Holiness and accepted by Him: The Most Holy Father promoted to the aforementioned church the Most Reverend Peter Gonzalez, born of legitimate, Catholic, and honorable parents from Quito, and established in the thirty-seventh year of his age. He was enrolled among the students of the Pontifical Latin-American College in Rome, where he was ordained a priest and has taught sacred theology for some time, volume IX, section CV, paragraph 30.

[*Latin ed. p. 466*]

466 From the Consistorial Acts, Donatus, having received the ecclesiastical dignity, diligently discharged his duties in ecclesiastical functions, and in the Metropolitan Canonical Province, he has until now been esteemed as a theologian. Ibarra, a city in Colombia, located in the province of Imbabura within the Ecuadorian territory in South America, is situated in a vast and fertile valley, enjoys a healthy climate, and is inhabited by three to four thousand Catholic citizens. The Cathedral, dedicated to Saint Michael the Archangel, was destroyed by an earthquake, and until it is rebuilt, divine services are temporarily held in another church; the Archbishop of Quito provides assistance. Its Chapter consists of twelve canons, who provide theological and penitential instruction. Among these, the first in order

Translated by churchlatin.ai, a product of Boyne Archives

after the pontifical dignity is the Dean, and the second is the Archdeacon, to which six Beneficiaries, or Prebends, must be added, along with as many Chaplains serving in divine offices. The Chapter has habitual care of souls, which is administered by the Canon-Parish Priest in the church, which is equipped with a baptismal font. In addition to the parish church in the city of Ibarra, there is a seminary; before the earthquake, there were four monasteries for men and two for women, but the city is in need of more religious institutions. The extent of the diocese is very wide and encompasses twenty locations. The EPISCOPAL CHURCH of SLTXWIEN, under the Archbishop of Tyre, in areas inhabited by non-believers, was transferred by the Reverend Father Odon Thibaudier to the Cathedral See of Soissons: His Holiness promoted him to that same church, and because of the many duties that the Reverend Father Anthony Felix Philibert Dupanloup, Bishop of Orleans, was burdened with, he was appointed as his Coadjutor with the right of succession. Furthermore, with the expressed consent of the illustrious Duke Maurice de MacMahon, President of the French Republic, and of the Bishop of Orleans, the Reverend Peter Hector Coullié, born in Paris to legitimate and honorable parents, and having surpassed his forty-seventh year, was appointed. Having been appointed as a Professor in the small seminary of Saint Nicholas in Paris, he served as a substitute in the parish churches of Saint Margaret, Saint Eustachius, and the Blessed Virgin Mary, and having renounced the honors of a Canon, he is currently serving in the Archiepiscopal Curia in Paris. The city of Sidon, in Phoenicia, in Syria, is still under the authority of non-believers.

[*Latin ed. p. 467*]

From the Sacred Congregation of the Council for the Transfer of the Cross, 467, a most grievous complaint is made; concerning which, the deplorable state of affairs passes into infamy without being silenced. The city of Aurelianensis, situated on the banks of the Ligerula river, within the very province of the Lidericini, or Ligerula river, built on a plain, enjoys the best air, and contains over forty thousand inhabitants, all of whom, with the exception of a few Protestants, are Catholics, and are subject to the dominion of the Gallic Republic. It boasts a most elegant Cathedral Church of Gothic structure, dedicated to the Most Holy Cross, and it serves as a suffragan to the Archbishop of Parisiensi. Nine titular Canons, among whom are a penitentiary and a theologian, constitute its Chapter, to which are added several honorary Canons, and boys from the choir, who are joined by students from the large seminary for divine service on more solemn feasts. Through a Canon-Archpriest, assisted by some Vicars, the care of souls is exercised within the Cathedral itself. Eight other parishes are counted within that city, each provided with a baptismal font, as well as several monasteries of women, sodalities, hospitals, and both a large and a small seminary; nevertheless, a pious fund is lacking. The diocese encompasses the entire

Translated by churchlatin.ai, a product of Boyne Archives

province of the Lidericini river. It extends for almost twenty leagues in length, and eighteen in width, and includes many places within its bounds. Finally, a petition for the Most Holy Pallium was granted to the Metropolitan Churches of Senensi, Salisburgensi, and St. James of Venezuela. FROM THE SACRED CONGREGATION OF THE COUNCIL FOR THE TRANSFER OF THE CROSS. On May 13, 1876. In the town of M. Dioecesis F., there are three parish churches, not clearly distinguished by boundaries; of which, two are administered by secular priests, and one by a regular priest. In past times, controversies arose among the priests of the three churches concerning precedents.

[*Latin ed. p. 468*]

468 From the Sacred Congregation of Councils, the rights pertaining to processions, which are customarily held annually in turn among a parish with the participation of other pastors of that town. In order to remove all occasions for dispute, a meeting was initiated in 1735 among the pastors, to which the authority of the Ordinary was added. At this meeting, a certain method was established for the exercise of the right of precedence, to regulate the order in which the processions were to be held among the same pastors. This arrangement peacefully prevailed until the year 1874. At that time, while the Regular Pastor had the right to hold the procession, according to the aforementioned agreement, he heard that Pastor M. wished to enter the church, carrying the cross, where the procession was to take place. Upon learning of this, he warned Pastor M. in writing that he would not tolerate any violation of his jurisdiction. Nevertheless, Pastor M., wearing a sacred linen garment and stole, preceded by a certain pious sodality, carrying the cross, and accompanied by some of the clergy, stood for a time before the church door in order to hear the protest of the Regular Pastor, and then entered the church to participate in the solemn procession. The Regular Pastor, who had vainly attempted to defend his rights, brought the matter before the Episcopal Curia; which, after hearing the arguments of both sides, issued the following judgment: "It is hereby declared that the church of Saint Mary of P. does not properly possess the title of a parish church, nor does its rector possess the title of head of the pastors; we decree that it is not the right of Pastor M. to enter, carrying the cross, into the church of the Regular Pastor when the feast of Saint John the Baptist is being celebrated there, and a solemn procession is being held; we command, therefore, that the current pastor, and his successors, obey this our decree." With an aggrieved spirit, Pastor M. notified the aforementioned decree to the parties through the Vicarius Foraneus, and on the 18th of that month, after giving notice, he appealed to the Congregation of the Holy Council

Translated by churchlatin.ai, a product of Boyne Archives

on September 17, 1875.

[*Latin ed. p. 469*]

Regarding the right to appeal, the defense of the regular parish priest divided his argument into four points. He argued that the right of appeal was granted to the parish priest, Mr. X. Secondly, he sought to defend the validity and justice of the Archdiocesan Court's decision in the petition. Thirdly, he also defended the validity of the fact or the possession itself. Finally, he contended that the opposing party could not in any way claim prescription.

Regarding the first part of his argument, he stated that both civil law and canon law had established a time limit for appeals in order to prevent lawsuits from lasting indefinitely. The ancient Roman laws granted a period of two or three days; however, Justinian, to whom canon law adheres, established that an appeal must be filed within ten days of the pronouncement of the judgment; if this time elapses, the judgment itself becomes final, and the law must be declared peremptory: Novell. 23, cap. 1. Cap. 15. De sententia et re iudicata; cap. Cum dilectus 32 de eieci.; cap. Concertatane 8 De appellat, in 6. This law, he maintained, has been observed by the Holy Congregation, despite previous resolutions, even in the case of the Feretrana Annulment of Marriage of December 11, 1875.

However, he stated, the opposing party had filed an appeal with the Holy Congregation several months later; at that time, the appeal was already perempted, because the useful time had already elapsed, and the judgment had passed into res judicata.

Addressing the second point of his argument, the lawyer argued that the Court's judgment was justified, even though the matter was to be decided by a petition, whether one examines the law of common law or the agreement of 1735.

(Note: The text ends abruptly here, and the reference "Etenim tri1 Vide causam eiusmodi relatam, pag. 130, Voluminis praesentis" indicates that there is more to the argument, but the provided text is incomplete.)

[*Latin ed. p. 470*]

470. He argued from the Sacred Canons that it is contended that to carry a raised cross publicly or privately before one is a sign of jurisdiction, and indeed, it is a proper sign of Legates of the Apostolic See, Patriarchs, Primates, and Archbishops, as Barbos teaches, in the *Collectanea Buttarli*, words *Crux et Devoti instit. can. tom. i*, Section 3, § 40. And the sacred canons strictly forbid this, to the extent that a parish priest should not proceed publicly; for if it is permitted for parish priests to celebrate solemn processions, it is not permitted for them to go beyond the boundaries of their parish, and much less to enter the church of another parish. This argument is further strengthened, because it should be noted that a parish

Translated by churchlatin.ai, a product of Boyne Archives

priest must be considered to be outside his own territory, and he cannot exercise any jurisdiction if he enters a foreign church, as De Luca states in *De Regular*, disputation 65, number 7, and disputation 22, number 5, concerning prerogatives. The advocate also showed that in the convention of the year 1735, it was written: "All confraternities must gather where the feast is celebrated, and there they must end the procession." Therefore, the procession must begin and end in that of the three parish churches in which, according to the aforementioned convention, the feast is to be celebrated. But in law, it is a principle that agreements, when they are lawful, must be observed, as Z. i, ff. *de Pactis*, I. 7 states; and *eod.* § *Praetor*, chapter 3 *de Pactis*. However, if a parish priest publicly and processionally goes forth from his own church and goes to another, he himself already gives the beginning to the supplication, and violates the convention; therefore, no right can descend in his favor. Furthermore, it cannot be proven that the church of Parish Priest M. is the parish church; because all the arguments taken from history seem to show the contrary. Nor is it to be said that this church has the right to be the parish church by privilege, because such a privilege is not presumed, but must be proven by the adversary, according to De Luca, *De paroch.*, disputation 40, number 4. But if one were to suppose that the church of Parish Priest M. is the parish church...

[*Latin ed. p. 471*]

The right to carry the Cross 471 does not belong to the mother church, and even in this hypothesis, the adversary's claim of such a right would never exist. Indeed, the Holy Canons reserve a certain honor, namely the favor of the mother church, for the benefit of the local parish, as stated in chapter 3, "Concerning Hearings," of the book "De Ecclesia, aedificiis." And this honor is restricted to an annual census, as a sign of subjection, the reservation of the baptismal font, or the right of burial, the right to collect tithes, as testified by Fagnan in the aforementioned chapter, and by Laurentius in "De beneficiis ecclesiasticis," question 1, number 157, number 7, and others; but it has never been written by the canonists that the mother church has the right to carry the elevated Cross in a dependent church. Therefore, even if the parish church were truly the mother church, such a right would not belong to it. The justice of the episcopal court's judgment can also be derived from this point, because, according to the adversary's own confession, the elevated Cross pertains to the entire clergy, and the parish priest is only the custodian of the Cross, and cannot use it if the rest of the clergy is absent. The Council of Trent clearly demonstrates the validity of such a judgment in Session 25, chapter 13, "De Regul." where it is stated: "All controversies concerning precedence, which often give rise to scandal among ecclesiastical persons, both secular and regular, whether in public processions, or in ceremonies performed in the burial of the dead,

Translated by churchlatin.ai, a product of Boyne Archives

and in the carrying of the umbrella and other similar things, belong to the Bishop, without any appeal, and notwithstanding any agreements." The Holy See has always sought to ensure that the decree of the Council of Trent is observed, as demonstrated by the speaker with the authority of Barbos in the aforementioned chapter, number 44, where the aforementioned author, citing as an example a case in Camerino on August 24, 1619, writes: "To direct processions, whether they depart from any place or go to any place, belongs to the Bishop, notwithstanding even the unforgettable custom." Therefore, the speaker also examined the case in which neither the common law nor the agreement of 1735 would prevent the Cross from being carried out of his church, the Ordinary, by his own right, is justified in avoiding scandal.

[*Latin ed. p. 472*]

472. He could prevent the outcome of the aforementioned Council decision, even though an unforgettable custom existed. Proceeding to the third point, the advocate asserted that the Ordinary's judgment was unjust, even though the matter concerned possession, since, according to the opponent's confession, he had never exercised this right within the space of six years. Therefore, he argued, one should not support the custom presented by the opponent; for in order to establish a custom, three things are necessarily required: 1.° the usage of the people, 2.° the frequency of actions, 3.° the duration of time. However, in this case, since the custom only concerns the Parish Priest and does not pertain to the multitude, the Parish Priest cannot invoke it. Nevertheless, whatever may be the case regarding the custom, the advocate asserted that in this matter, a custom could not be established, 1.° because anyone who knows it would recognize that such a custom would undermine the hierarchical order; and consequently, it would be unreasonable, indeed, abusive and corrupt, because it would oppose the freedom and discipline of the Church. For the sacred Canons prescribe that no Parish should be subjected to the servitude of another, nor deprived of its freedom; indeed, the rights of the Parish Priests must be inviolably observed, because they are granted to the community and not to the individual (cap. 1, quaest. 1, caus. 13). Reiffenst. lib. 1, tit. 4, n. 59. Amostaz. de causis piis lib. 6, cap. 3, n. 38. De Luca Praeeminent, disc. 24, n. 11, and because a custom cannot be introduced contrary to the rights and privileges of the Regular clergy (Amostaz. loc. cit. n. 48, 49). Even admitting that such a custom could be introduced in general, in this particular case, the proof of its existence is lacking; for a custom is not considered effectively proven unless it is established that no contrary action has occurred. It is known that a custom can be interrupted by a single contrary action, even if a thousand actions were given in favor of the custom. Nor can such a custom be considered proven by witnesses brought

Translated by churchlatin.ai, a product of Boyne Archives

forward in the case; because, through their depositions...

[*Latin ed. p. 473*]

473. The right to bring a suit concerning the Cross is not only not commendable, but if it arises, it should be declared to be ceased. Finally, reaching the fourth point of his argument, the speaker attempts to prove that the exception to prescription does not benefit the opposing party, firstly, because there is no object subject to prescription, such as privileges granted not to particular individuals, but to the entire body of the Church. This point is to be held even more strongly after the Constitution of Urban VIII, which began on July 5, 1641, in which the oath of the Apostolic See, as well as that of inferior Churches, and of ecclesiastical persons of any kind, with any prejudicial conditions, were declared unlawful and unreasonable, so that they could not, from any point in time, be alleged either in court or outside of court. Secondly, there is no just title; for both parishes are equal and independent; indeed, if a regular church is exempt, the opposing party can only be aided by an Apostolic privilege, which is not presumed but must be proven. Furthermore, it must not be forgotten that here we are dealing with a prescription against a presumption of law, and therefore, the one alleging it must prove the title. Thirdly, there is no good faith, which in the prescription of incorporeal things is not presumed but must be proven; which the opposing party has not done, nor could do. Finally, fourthly, the time required for prescription is not established by law; for, according to the confession of the opposing party himself, the prescription would only be for twenty years, and that intermittently and sporadically. But let no one be unaware that a jurisdiction act in another's parish cannot be prescribed within a period of twenty years, especially after the Constitution of Urban VIII, which establishes that in these cases, prescription does not arise at any point in time.

DEFENSE OF THE PAROCHIAL PRIEST. From what has been stated above, it is clear that the defendant is dealing with a double question, as it emerges from the formula of doubts; namely, one concerning the peremptoriness of the appeal.

[*Latin ed. p. 474*]

474 From the Sacred Congregation, concerning a matter, the principal point. Regarding the first question, it was noted that the opinion of the Episcopal Curia had not been legally promulgated, that is, with the proper form of judgment observed. Indeed, besides the defect in the citation, the sentence was to be published in a public hearing according to the Code of Gregory XVI, and at least through a legal person, and not through a vicarious of the region. Therefore, it seemed that the fatal days had not elapsed; and this appears even more so, because from the very Gregorian Code itself, it must be understood that time should be reckoned from the

Translated by churchlatin.ai, a product of Boyne Archives

day of notification of the sentence, so that the period for appealing is not lost. To this may be added that in the Sacred Congregation, equity prevails rather than the strictness of the law, and therefore, there is no doubt that the appeal will be upheld, since this does not detract from the rights of the parties, but rather tends towards a greater investigation of the truth. Having made these preliminary remarks concerning the matter at hand, the Reverend Father noted that the merit of the cause concerned not the exercise of jurisdiction, but rather precedence. But, he continued, in fact, I am the first dignitary of the town; as the Ordinaries of this Diocese have declared, calling me the head of the clergy, and stating that I hold the first place in the town. And that this is most fitting for such declarations in matters of precedence is also derived from the decision of the Sacred Rota, number 729, paragraph 1, in the case of Lancetta, where it is stated that the Bishop is best informed about the status and prerogatives of his Churches. To all of this, the decree of the Curia F. from the year 1539 adds its weight, with these words: "In general processions, in the burial of the deceased, and in other public acts, and in other matters, we declare, we pronounce that the Reverend Father Andrea Buglione, Rector of the parish church of Saint Mary (which is the parish of the Parochus), is to be maintained and is to be in almost complete possession of precedence." This right...

[*Latin ed. p. 475*]

The Sacred Roman Rota, he states, has ruled that the right to carry the Cross was known from a sentence of June 9, 1593; therefore, he does not believe there should be any doubt about the right of precedence pertaining to it over other parish priests of the town. Having established this, he argues that it does not violate any jurisdiction if the church of the Fathers Conventuals, along with its clergy, enters, bearing the Cross; provided that he has established that the elevation of the Cross does not signify an act of jurisdiction, but rather a sign of honor and reverence due to the dignity. After Vitalianus, in Clementina, on privileges, no. 65, the Rota teaches that in Lucana, concerning the carrying of the Cross, as reported by Scarfant to Lucubr. Ceccoper., vol. 1, decision 76, nos. 6 and 23 – there: "All canonists agree that the carrying of the Cross in 'exempt' churches does not imply the exercise of jurisdiction, but rather honors the dignity." He also states that it is not permissible to consider the opinion of the canonists to apply only to archbishops, and therefore not to parish priests. For there, a general principle is established, which is that the carrying of the Cross does not imply the exercise of jurisdiction; which should be more readily admitted, since it is known in law that the carrying of the Cross is nothing other than a sign of the sacred military order, as stated in the writings of Pignatell, cons. 30, no. 7, vol. 4. Therefore, it follows that the pious sodality, not only of the aforementioned town, but of the entire Church, including parish and regular clergy, can enter, without it being said that they violate any

Translated by churchlatin.ai, a product of Boyne Archives

jurisdiction or exemption. This argument is further strengthened if one considers that the parish priest was not, at that time, strictly speaking, exercising his parochial function, but rather was accompanying the clergy and sodalities entering that church. Although he sometimes concedes that the carrying of the Cross in a particular case may signify a sign of jurisdiction; nevertheless, he affirms that the aforementioned parish priest can, on such an occasion, enter the church bearing the Cross, based on necessity and custom. Regarding necessity, he states...

[*Latin ed. p. 476*]

476 From the decrees of the Holy See concerning the Council, as reported by Pigliateli, consult. 30, no. 7, 10 volumes, 4; from which it is made manifest that every cleric, in processions, ought to bear, as if in a terrestrial military order, his own military cross, and that he cannot proceed under another banner. From the very decree, by which the Ordinary approved the convention of the year 1735, it is deduced that each member of the clergy ought to solemnly associate himself with the Relic of Saint John the Baptist in procession, under penalties to be imposed at the discretion of the Ordinary. Therefore, if the clergy of the town, who are all obliged to solemnly associate themselves with the Relic of Saint John the Baptist, bearing their own cross, then it is fitting that they enter the aforementioned church, bearing the cross aloft. Regarding the custom, testimonies were presented by several senior citizens of the town; who affirmed that they had seen the clergy and the parish priest accompanied by this cross, entering the church together; or that they had personally witnessed the aforementioned priests entering the church on such an occasion. Such observance is all the more to be admitted because, according to the decision in *Rota*, no. 71, no. 12, *cor. Heran*, it suffices to demonstrate it with two or three uniform acts – there: Therefore, everyone understands that a certain interpretative custom emerges, for which it is sufficient that two or three uniform acts concur. However, from the testimonies given, it is clear that this practice has existed from the year 1820 until the year 1869. But not only does the argument of custom hold weight in the interpretative and presumptive sphere, but it is even more valid if it is considered in the prescriptive sphere. It is known in law that a parish priest may enter a regular church even on the occasion of a funeral, with a stole and a raised cross, if custom favors him: which is testified by Ferraris, *V. Praecedentia edit. novis*, and by Giraldi, in the annotations on Barbosa, *De officio et potestate Parochi*, part 3, article 26: "Furthermore, parish priests cannot be excluded, if custom favors them, from entering these churches."

[*Latin ed. p. 477*]

Regarding the matter of displaying the Cross 477: "(that is, the Regular clergy) are permitted to enter with a stole and the Cross elevated, as

Translated by churchlatin.ai, a product of Boyne Archives

declared by the Sacred Congregation in Viglevanen, on the 17th of June, 1717." Therefore, it must be said with even greater force if we are speaking of general processions, in which no sign of the exercise of jurisdiction is apparent. Thus, the Parish Priest M. stated: "If my predecessors, for a very long period of time, as evidenced by the aforementioned depositions, have entered the Parish Church in the manner described, then I have spontaneously prescribed this manner of entry, and it is not possible for me to be prevented from doing so. For it is a legal principle that custom has the same authority as law, because custom has the force to bind citizens to its observance in the same way as the law itself. See the text in § without a title, 9, in the title on natural and civil law, Voet, on the Pandects, Vol. 1, title on Law, no. 30. And this is all the more to be admitted in this matter, if it has such force as to constitute a better title to ownership, and also to establish a settled matter, as stated in Cap. super quibusdam 26 § Furthermore, see De Luca, on Benefices, Vol. 12, discourse 32, nos. 2 and 4. To prove an immemorial custom, it is sufficient to have the testimonies of witnesses who can prove that it has been practiced for ten years, according to Surd. cons. 262, no. 26 and 27 - there: "If witnesses cannot be found to prove the observance of a custom for a very long time, (those who are able to testify for such a long period), yet if it is proven to have been observed for ten years, it will still be considered proven by presumption, even retroactively." This is in accordance with the Rota's decision, 403, no. 5, p. 4, Vol. 2, and the Corrector's decision, 40, no. 2. With these considerations, the Parish Priest M. concluded that the custom in this matter must be completely observed, and that the Curia's decree must be reformed. Therefore, the objection taken from the Council of Trent, Session 25, chapter 13, is of no value; in which it is stated that these controversies are to be defined by the Bishop, after the appeal has been removed. Indeed, he argued that those words must be understood in the sense that scandal results from them: Barbosa, on Rectorships.

[*Latin ed. p. 478*]

From the Sacred Congregation of Councils, Decree 478, chapter Conc. Trid. n. 7, and concerning the suspensive effect, not the appeal, in devolutive matters: Barbosa, loc. cit., n. 8 and following. On the office and power of the Bishop, page 3, note 78, n. 6, and the Sacred Congregation of Councils, as can be seen in volume 3, page 306 of this journal. After these and other points having been presented with the favor of both parties, the Most Reverend Fathers, with prudence, resolved to address the following questions.

I. Does the law definitively establish the suspension of an appeal in this case? And, to the extent that the answer is negative.

II. Should the judgment of the Diocesan Court in the matter be amended, or should it be confirmed?

The Sacred Congregation of Councils, having considered the matter,

Translated by churchlatin.ai, a product of Boyne Archives

gave its response on May 13, 1876, as follows:

To the first question, the answer is affirmative.

To the second question, the answer is provisional, and furthermore, to the first.

THEREFORE, THE FOLLOWING MAY BE INFERRED:

I. The judgment of the Ordinary, in this matter, has passed into a final judgment, because it has not been appealed within the time prescribed by law before the Sacred Congregation.

II. To proceed publicly or privately, carrying a cross before one, does not merely signify an honor, but also jurisdiction; and especially this is proper to the Prelates of the Holy Roman Church, such as Patriarchs, Primates, and Archbishops.

III. However, it is also permissible for parish priests to conduct solemn processions, carrying a cross, within the boundaries of their own parish, but not in other parishes; for then, being outside their own territory, they can exercise no jurisdiction there.

The deductions that could be made from the response of the Sacred Congregation of Councils to the first question can be seen on page 136 of this volume, and on pages 613-614 of Volume VIII of this journal.

[*Latin ed. p. 479*]

Regarding the Right to Bear the Cross 479 I V. Neither does the right to enter filial churches, with a cross held aloft, belong to the mother church (which has not been proven to exist in this case), since this is not noted among the signs of honor reserved to the mother church by canonical jurisprudence; especially not with regard to Regular churches, which are exempt. V. Nor can this be accomplished through custom; because the rights of parish priests, as they pertain to a group and not to an individual, cannot be prescribed by custom to the contrary, unless a custom is clearly proven, but they are inviolably maintained. V I. The Council of Trent, session 25, chapter 13, instructs bishops to settle all disputes regarding precedence, which often arise to the scandal of ecclesiastical persons, with all due consideration.

1 2. CHAPLAINCIES. On June 10, 1876. Summary of the facts. Peter Viti, from the city of V., in his testamentary codicil, executed on December 5, 1779, disposed of his property as follows. He willed, that is to say, that certain things be reserved in favor of the mother church. From the aforementioned testament, it is stated: "To the aforementioned church, which has suffered dismemberment, I grant the right to be heard, and I contribute for the support of the rector, and also the right of patronage over the new church." However, all that is due to the mother church, according to the

Translated by churchlatin.ai, a product of Boyne Archives

aforementioned chapter, must be observed; for example, that an annual census be paid to it, or that burial be reserved there, or that a solemn Mass be sung in the newly erected church by the rector of the mother church on the day of its titular saint; or finally, that the pastor of the new parish, and his successors together with the parishioners, once a year, proceed processionally to the mother church and offer prayers. This reservation is more properly applicable to others; because to approach a certain place is a sign of subjection (Rota before Seraphin, decision 15, no. 3). However, we do not find in canonical jurisprudence that the mother church can enter filial churches, with a cross held aloft. Regular parish priests are subject to the jurisdiction of the diocesan bishop only in matters pertaining to the care of souls and the administration of the sacraments (Council of Trent, chapter 11, session 25, On Regulars). In all other respects, they enjoy the privilege of exemption, and are subject only to their Regular superiors.

[*Latin ed. p. 480*]

1.480. From the will of Olympia, sister of the Sacred Congregation, it was stipulated that she was to be the usufructuary of all her goods; and upon her death, in order that these goods might be used for pious purposes, a legacy or chaplaincy was to be established in the parish church of Saint Mary in the city of Novae, granting the patronage of said parish to the parish priest for the time being; who could appoint or retain a chaplain for himself for the same chaplaincy, fulfilling the same obligations. The chaplain was to offer Mass for the revenues of the inheritance, along with an alms of twenty pence; these Masses were to be recited after midday daily, or if revenues were lacking, at least on feast days, and on other days as far as possible, according to the revenues. The testator first named Joseph S. as the chaplain. When the usufructuary, Olympia, passed away, the Ordinary, by his decree of December 5, 1799, proceeded to establish such a chaplaincy, reserving and granting to the superiors for the time being of the aforementioned church the right to appoint the chaplain, with the faculty of requesting a grant in order that they might retain him, according to the terms of the will. And Joseph S., who had been named by the testator, received this appointment. Upon his death, the then parish priest retained the chaplaincy for himself, even after he had relinquished the parish. The parish had been held since 1859 by Blancus B., who, after the death of the chaplain, requested his own Ordinary to grant him a grant and to assign the chaplaincy to him. This was done; and therefore, the then superior, Blancus B., entered into actual possession of both the chaplaincy and all the goods. However, he, being weakened by illness and suffering from a serious decline in health, sent a message to the priorate, retaining the aforementioned chaplaincy until this time without any disturbance. Nevertheless, at the beginning of this year, the parish priest, who governs the aforementioned church, has proposed two doubts: 1.° Whether the two aforementioned

Translated by churchlatin.ai, a product of Boyne Archives

parish priests acted properly in retaining the legacy or chaplaincy.

[*Latin ed. p. 481*]

481. Concerning Chaplains: 2. If the current legate is no longer a parish priest, he cannot retain the chaplaincy with him without the consent of the succeeding parish priest, if it has been expressly stated by the founder that the aforementioned chaplaincy or legacy should belong to the parish priest. A concise discussion. THE RIGHTS OF THE PARISH PRIEST. Since the solution to the question mentioned above will become clear from what is said, it was deemed unnecessary to add anything further on the matter. Regarding the second point, it was noted that if the wording of the will is examined, the cause favors the current parish priest. For the entire disposition can be interpreted in his favor; even if something seems less favorable to him; because, as stated in chapter 6 concerning Donatus, at the end: "In contracts, the fullest interpretation is to be applied; in wills, a more complete one; and in benefits, the most complete one." From these points, two consequences can be deduced: namely, that a legacy of this nature takes precedence over a lay chaplaincy, and that it is removable at will; otherwise, the parish priest, whom the testator most wished to benefit, would derive no benefit or at least a very meager one from it. It seems that the chaplaincy is lay because the testator never used the word "benefice" (which is equivalent to an ecclesiastical chaplaincy) or words of equivalent meaning. The testator never mentioned the authority of the Ordinary in establishing it, but simply called his foundation a "chaplaincy," a "legacy." These words indicate a purely lay chaplaincy, as stated by Pignatelli, Volume 3, Consultation 2, number 3; Amostaz, On Pious Causes, Book 4, chapter 2, numbers 6 and 7. The fact that the Ordinary has completed the establishment of the chaplaincy and has established a certain endowment in a certain church does not seem to be an obstacle: because that would be contrary to the testator's will, and therefore would not change the nature of the chaplaincy. Acts, Volume IX, page 31.

[*Latin ed. p. 482*]

482 From the Sacred Congregation, as argued by Clement, because it is stated in *Rei Dom.*, book 5, session 25, concerning the reform of the Council of Trent, that the *Rota* in the Anagnina Chapel, on June 16, 1749, § 8, decision Matteaccio, number 309, number 10; and this perhaps stems from that general principle, that no one, except the Supreme Prince, can override the will of the deceased. In practice, however, it frequently happens that the Sacred Congregation revokes erections made by Ordinaries, in order that the testator's will may be observed; and this also occurred in the other Viterbo Chapel, on November 23, 1765. Therefore, the erection of such a foundation by a Bishop appears not to exceed the limits of simple approval; and this approval of the Ordinary should also apply to legates and

Translated by churchlatin.ai, a product of Boyne Archives

lay chaplains, according to decrees confirmed by Urban V, as is stated in Benedict XIV, *De Synodo Dioec.*, book 13, chapter 11, number 10. Certain endowments, and a certain church designated to satisfy the expenses of the chapel, do not seem to present any obstacle, because both lay and ecclesiastical chaplains share these. With this nature and character of the chapel established, it seems to flow spontaneously that it can also be removed at the will of the patron. Furthermore, a lay chapel is equated with legates in all matters concerning Mass, and its provision signifies nothing other than the appointment of a priest to celebrate the Mass. Hence, after Cardinal De Luca, in *Discipline*, number 97, number 10, concerning benefices, it is stated that it pertains to domestic ministry, as Argna de lurep. Part 2, Canon XXI, Causes 10, number 14, and that its possessor can be removed by the patron, even without cause, in much the same way as a lord dismisses his servants and ministers. Such removability can also be deduced from the fact that the testator, wishing to benefit the parish priest for a time, granted him the faculty of either retaining the chapel for himself, or of removing it.

[*Latin ed. p. 483*]

Concerning the appointment of a chaplain, 483, or the removal of a chaplain. But if the parish priest could not remove the chaplain, what benefit would have been conferred upon him? Therefore, since the removability is deduced from the full interpretation of the testator's will, no reason can be adduced to the contrary, by which the present parish priest would be prohibited from removing the chaplain. Indeed, if the patron, in order to provide for a relative, can remove the instituted chaplain, and this is based on the presumed will of the testator, as Pitonius, *De Contr. Patron.*, Alleg. 38, n. 10, states, how much more so should this be allowed to the parish priest in order to provide for himself? Especially since the parish priest has no cause from a predecessor patron, in which case he could not remove the chaplain appointed by him; but he comes by his own right and is called by the testator, and therefore he is not bound to abide by the appointment made by his predecessor, as Fargna, *De Iur. Can.*, 21, Case 1, n. 12, p. 2, states. Finally, even if, due to the erection made by the Bishop, or the institution granted to chaplains, the chaplaincy had become ecclesiastical, this does not seem to diminish its removability, as almost all authors teach, among whom is Amostaz, *de Causis Piis*, Book 2, Chapter 1, n. 10, and therefore it always remains that the testator granted to the parish priest, for the time being, the power to dispose at his pleasure concerning this pious endowment.

THE RIGHTS OF THE CHAPLAIN. The chaplain, on the contrary, argued that the parish priests had used their rights, when, upon relinquishing the parish, they retained the chaplaincy. Although the Canon Law prohibits the ecclesiastical patron from appointing himself, it nevertheless grants him the faculty of requesting a grant from the

Translated by churchlatin.ai, a product of Boyne Archives

Ordinary. Reiffenstuel, *Lib. 3, Tit. 38, § 73*, states: "The patron can request the Bishop to confer a benefice upon him, and the Bishop can grant it to him if he finds him worthy." The same is stated by Ferraris, *ad verb. Iuspatronatus, Art. 4, § 78*, and Lambertini.

[*Latin ed. p. 484*]

From the Sacred Congregation of the Council, Book 2, part 1, question 8, article 3; Barbosa, *Ius Eccl. univers.*, chapter 12, number 199. Indeed, Rigantius proceeded further in interpreting Rule 17 of the Chancery; for he imagined two patrons, one of whom would present an outsider, while the other would solicit a favor, and he concludes that the Bishop ought to favor the ecclesiastical patron. There, he states: "If two patrons exist, and one presents an outsider, while the other, through prayers, supplicates the Ordinary for himself, this latter should be favored, excluding the outsider." And this principle was debated before the Sacred Roman Rota, and was confirmed, as can be seen in the decree of the Jurispatronatus, January 19, 1624, before Pirovano. It must be added that this principle was also confirmed in a case through a decree of the Bishop concerning the erection [of a benefice], in which it is written: "We reserve and grant to the Reverend and Most Reverend Priors for the time being of the aforementioned parish church the right to nominate and present a chaplain to said pious benefice, whenever it becomes vacant, with the faculty of requesting a favor, so that they may retain it, if they so desire." From this, it is concluded that the institution granted by the Bishop, whether to his predecessor or to himself, is not alien to the law, and that the question raised by the parish priest is not a true injury, not so much against the chaplains, as against the Ordinary who granted such institutions. Furthermore, by descending to the details, it was observed that this does not concern a removable chaplaincy, which does not have a distinct endowment, so that it cannot be conferred upon the priest who is elected and presented to it; but rather, it concerns a canonically erected chaplaincy, according to the will of the testator, who left goods to the chaplain to satisfy obligations, and therefore it is immovable. Given this, it is clear that he who has received a canonical institution from the Bishop cannot, in any way or at any time, be removed from the possession of the chaplaincy.

[*Latin ed. p. 485*]

Chaplaincies 485. All these things appear to be confirmed by the history of chaplaincies, as well as by institutions granted by various bishops in times past. Indeed, if this chaplaincy were to be removable at the will of someone, the same priest, designated by the testator himself, could be removed; and then what benefit would the founder have conferred? And what would those words in the Episcopal Bull mean: "To the aforementioned legate, we institute a chaplain, with all Episcopal rights preserved,

Translated by churchlatin.ai, a product of Boyne Archives

as long as you live, even if you should later renounce your priorate, which you possess"? From these things, the chaplain clearly demonstrated that, just as it was granted to others, the chaplaincy was granted to him perpetually. He affirmed that this was in accordance with the testator's intention; because he left goods entirely distinct from the parish goods, so that there would be no need for the parish priest to also be a chaplain. He granted the parish priest the right to exercise patronage, whenever the chaplaincy remained without a rector, but he granted him no right, and no power, to interfere with the chaplaincy when it was full. In order that the matter might be better understood, it was added that this same chaplaincy undoubtedly possesses an ecclesiastical character. For all Doctors of Law teach that the principal characteristic of ecclesiasticality is the erection made by the authority of the Ordinary, *arg. cap. Ad haec, de relig. Dom. §*. To this, the authority and the agreement of the Doctors of Law on this point are so great that Pyrrhus Corradus, *Prax. Rebuf. lib. 1 cap. 2 n. 41 et 24*, and Amostazo, *De Causis Piis Lib. 3 cap. 1 n. 7*, have asserted that the erection alone is sufficient to determine the ecclesiastical nature of a chaplaincy; a judgment confirmed by the Holy Rota in *Ripana Oratorii* on May 10, 1591, before Gypsio, n. 4, and in the decision 174, page 18, n. 8, *Recent*. And the reason is because by this decree of erection, the goods are separated from the others and dedicated to God. Besides the erection, other characteristics also appear to indicate the ecclesiastical nature of the chaplaincy.

[*Latin ed. p. 486*]

486 From the Decrees of the Holy Council, are found the following: the title, "Ecclesia designata" [designated church], in the records of the Sacred Rota in Papia, dated January 28, 1754, § 5, before Brutto; and in the Decrees of the Sacred Congregation in Fermo, dated August 8, 1767, §. To these may be added the nominations and presentations of patrons presented to the Curia, the institutions granted, the decrees concerning admission, etc., all of which are repugnant to the nature of a lay chaplaincy. The Rota before Buratto, Decree 221, and Decree 394, n. 4, before Riminaldo, attest to this. Such characteristics, which are all found in the aforementioned chaplaincy, are of such weight that, although the foundation of the chaplaincy may have been contrary, its nature would not be altered if it has been preserved for a very long time (Amostazo, I, c., book 3, chapter 2, n. 28). Furthermore, the Bishop can, at the request of the heir, the patron, or even the testamentary executor, convert a lay chaplaincy established by a last will and testament into an ecclesiastical one, provided that the testator was not *alienus* [a stranger] to an ecclesiastical chaplaincy (Piton, *de Controversiis Patronorum*, Alleg. 34, n. 20), and is considered *alienus* only when the Ordinary has manifestly excluded himself from the institution of the chaplaincy (Amostazo, loc. cit., book 3, chapter 13, n. 4); or when he has left not the chaplaincy itself, but goods to the chaplain (Piton, *I.

Translated by churchlatin.ai, a product of Boyne Archives

c.*, Alleg. 49, n. 4); he is not *alienus*, however, if he ordered the erection of the chaplaincy, if he provided an endowment, or if he designated a church. And although the matter is doubtful, the more sound opinion of the Doctors favors the ecclesiastical nature of the chaplaincy (Amostazo, I, c., chapter 2, n. 15; Piton, *I. c.*, Alleg. 49, n. 27, and Alleg. 33, n. 16; Barbosa, *Iuris Universalis*, book 2, chapter 3, n. 1, Decree 15, n. 13, Par. 3, recent). Considering these matters that have been presented, there can be no doubt about the ecclesiastical nature of the chaplaincy; for the testator willed the erection [of the chaplaincy]; he left the right of patronage to an ecclesiastical person; and, by reason of the ecclesiastical office, which, according to Reiffenstuel, book 3, title 38, n. 49, is sufficient to make the patronage ecclesiastical, if the erection was completed by the Bishop at the urging of the testamentary executor; an endowment was left.

[*Latin ed. p. 487*]

Chaplaincies 487. A chaplaincy; the Church designates it; and a long period of observance has followed. Given the nature of such a chaplaincy, it is understood that it can be equated in all ecclesiastical benefits: but the principal characteristics of a benefit are perpetuity and immovability; therefore, the present chaplain cannot be expelled, especially if his peaceful and long possession is considered; for which reason, even if it has been for three years, according to Rule XXXVI of the Chancery, he would remain a secure holder in his benefit. With these things established, it can also be admitted that the chaplaincy in question is a lay chaplaincy; because, according to Card. De Luca, *De Beneficiis*, Discourse 80, paragraph 10, a lay chaplaincy, by its very nature, is perpetual. Even if it is admitted that such a chaplaincy was removable; it is established in law that a reason must be required for removing a chaplain, and indeed a weighty one; as an argument, see chapter. With a complaint about an election, *Fagna*, page 2, chapter 21, paragraphs 40, numbers 10, 11. *Rota*, decision 72, numbers 1, 2, *cor.* *Cavalier*. *S. C. C. in Nullius Farfa*, August 6, 1791. But no cause for removal was presented by the parish priest, nor was the consent of the parish priest lacking; because for so many years he has seen the chaplain in possession of the chaplaincy and has remained silent; which silence can be equated with tacit consent. With these things established on both sides, the two following propositions must be examined:

I. Whether the parish priest has legitimately possessed the chaplaincy or benefice in this case.

II. Whether the present chaplain can still legitimately retain the chaplaincy or benefice in this case.

[*Latin ed. p. 488*]

From the Decree of the Sacred Congregation of Councils, 488. The Sacred Congregation, after due deliberation on the matter, on June 10, 1876,

Translated by churchlatin.ai, a product of Boyne Archives

decided as follows: Affirmative, and moreover. From which the following may be gathered:

I. The ecclesiastical chaplaincy is distinguished from the lay chaplaincy solely by name, since, for it to be of the same nature as a benefice, two things are required, as in benefices: namely, the decree of its erection and the canonical bull of its institution.

II. For the establishment of a lay chaplaincy, it suffices that the act of the Bishop be added, whereby in writing, the acceptance of the same chaplaincy is plainly and simply declared; therefore, for the legitimate acquisition of possession of this, the intervention of ecclesiastical authority is not required.

III. The canonical erection, for the constitution of an ecclesiastical chaplaincy, is of such importance, according to the opinion of the Doctors, that it is sufficient to establish a distinction between a lay chaplaincy and an ecclesiastical chaplaincy.

IV. However, there are also other characteristics which seem to more clearly indicate the nature and character of an ecclesiastical chaplaincy, such as endowments, a title, a designated church, and the calling of clerics to celebrate Mass by themselves.

V. A chaplaincy, which is endowed with the same characteristics as an ecclesiastical benefice, can indeed be entirely equated with that benefice, and therefore made perpetual and immovable; since the principal characteristics of an ecclesiastical benefice are perpetuity and immovability.

VI. Moreover, a lay chaplaincy, according to the nature thereof, as stated by Cardinal De Luca in *De Beneficiis*, Disputation 80, number 10, is also perpetual; and a chaplain cannot be removed from it without a grave cause.

VII. The chaplaincy, concerning which we are speaking, does not appear to be lacking in the principal ecclesiastical characteristics; and...

[*Latin ed. p. 489*]

Furthermore, in the case of Praedicationis, there was not truly a grave reason to remove the chaplain from his long and peaceful possession of the chaplaincy, as is required in order for such a thing to be done concerning any benefit of any nature. PRAEDICATIONIS. On April 1, 1876, Bishop B., in a report on the state of his Church transmitted to the Sacred Congregation on January 7, 1876, stated the following: "A custom prevails in this Diocese, whereby 'Parishes, who are otherwise diligent in the preaching of the Word of God on Sundays, nevertheless, most of them entirely omit 'preaching on Holy Days of Obligation that occur during the week. In view of this, this Holy Congregation humbly requests - 1.° Whether this custom is tolerable, and if not, - 2.° Whether it can and should be prescribed that Parishes, on all other Holy Days of Obligation that occur during the week, should also perform the office of preaching, just as on Sundays; and if so, -

Translated by churchlatin.ai, a product of Boyne Archives

3.° Whether it is permissible to exempt certain more solemn days, on which the Parishes have the faculty of abstaining from the office of preaching."

Synopsis of the Discussion. The opinion of the jurists is that a reasonable and legitimately prescribed custom should be tolerated. For it is itself equivalent to written law and has the force of law, chapter 11, On Customs, I, paragraphs 32 ff., On Laws. And this even more so, because the Parishes are diligent in the preaching of the Word of God on Sundays, and therefore the faithful do not lack this salutary nourishment. However, a strong doubt arises as to whether such a custom exists, as mentioned above; for it seems to...

[*Latin ed. p. 490*]

490 From the Decrees of the Council, it seems to be a hindrance to the salvation of souls, since it is rarely broken, and it is as if it were taken away from the hungry, by which, indeed, all pastors are, by divine command, as the Council of Trent states in Session 23, chapter 1, on Reform, obligated to feed the sheep entrusted to them; therefore, it is to be considered utterly unreasonable and of no value. And rightly so. Although the use and long-standing custom have not a small authority, yet they are not so powerful that they should overcome reason or the law (Canon of Customs, Distinct. II). Furthermore, the aforementioned custom is contrary to certain chapters of the Council of Trent which speak quite clearly on this matter. Indeed, in Session 5, chapter 2, on Reform, it decrees: "that Pastors, or anyone else having care of souls, either by themselves, or through others who are suitable, if they are legitimately hindered, on at least Sundays and solemn feast days, should feed the people entrusted to them with wholesome words, teaching them those things which all must know for salvation, and announcing to them with brevity and ease of speech the vices which they should avoid, and the virtues which they ought to follow, so that they may escape eternal punishment and attain heavenly glory," and in Session 22, chapter 8, on the Sacrifice of the Mass, it commands "Pastors and all those who are in charge of souls, to frequently, either by themselves or through others, explain something from those things which are read in the Mass, and among other things, to explain some part of the mystery of this most holy Sacrifice, especially on Sundays and feast days." In Session 24, chapter 4, on Reform, it commands that preaching to the people by the Pastors should be held at least on all Sundays and solemn feast days; and it repeats this in the same session, chapter 7, prescribing: "that the Pastors, among the solemnities of the Mass, or the celebration of the Divine Office, should use the vernacular language to speak sacred words and salutary admonitions."

[*Latin ed. p. 491*]

"On festive days, both solemn and otherwise, they [the pastors] should explain [the Scriptures] and strive to instruct [the parishioners] in the Law

Translated by churchlatin.ai, a product of Boyne Archives

of the Lord." Therefore, since no exception seems to be admitted for festive days, even those within the week, but rather all Sundays and days of precept without distinction, the pastor, unless legitimately hindered, is bound to address the people with the words of salvation, either personally or through a designated substitute, as if it were his own duty. This custom to the contrary is to be rejected as a corruption, as stated in chapter 1 on Customs, section 6, and it has been expressly condemned by the Council of Trent, Session 5, chapter 2, on Reform, with the words: "Nor can the execution of this decree be hindered..." Furthermore, His Holiness Innocent XIII, in the Apostolic Constitution, which was confirmed by His Holiness Benedict XIII in the Constitution *In Suprema* on September 23, 1724, rebuked pastors who neglect to feed the flock entrusted to them with salutary words, at least on Sundays and solemn feasts, either due to custom or because of the abundance of preachers in other churches, stating that "such fault should be removed from themselves, either by striving to remedy it themselves, or under the pretext of an unforgettable, but indeed wicked, custom, or because it does not seem necessary for them to provide this themselves, given the abundance of others giving sacred discourses in other churches." The same was taught by His Holiness Benedict XIV in *Instit. 10, no. 3*, and this Holy Congregation has declared this on several occasions, for example, in the decree *Montisfalisci* of May 8, 1706, and *Nullius Orbetelli* of April 28, 1736, and especially in *Pisana* of August 30, 1817, in which, after the Archbishop of Pisa had explained that, in order to assist the people, especially those of simple understanding, he had obligated the pastors to give familiar discourses among the solemn Masses on all festive days, even though during Advent and Lent, when sacred discourses were given by preachers approved by the Ordinary, this Holy Congregation responded: "In the case under consideration, the decree of the Archbishop must be observed." Therefore, it seems that there is no doubt that a Bishop can obligate pastors to give a discourse.

[*Latin ed. p. 492*]

492 From the Sacred Congregation, on each festive day of precept, especially considering the Council of Trent, Session 5, chapter 2, concerning Reform: "The solicitude of pastors is entrusted to the bishops, lest it be neglected; The little ones asked for bread, and there was none to break to them. Jeremiah, Lamentations 4." However, pastors, concerning whom we have discussed, who diligently devote themselves to the explanation of the Gospel on Sundays, do not seem to be transgressing, at least against the substance and purpose of the Tridentine precept, if, on one or another occasion, as festive days are rare within the week, they omit to impart the word of salvation to the people entrusted to them. For the Council of Trent, Session 23, chapter 1, concerning Reform, does not prescribe anything regarding the time; and although it commands that pastors preach the word of God

Translated by churchlatin.ai, a product of Boyne Archives

on each festive day, it does not seem to have been strictly prescribed that it is not permissible for them, without fault, to occasionally omit this duty, for example, if the pastors were occupied with hearing the confessions of their parishioners, or due to a solemnity, or another just and reasonable cause. And this even more so, if, as may be presumed, the people to whom the pastors devote themselves to the diligent explanation of the Gospel, do not so greatly need the nourishment of the word of God. Therefore, it would seem to be permissible for them, on occasion, due to the solemnity of the day or another just and reasonable cause, to not nourish the people entrusted to them with salutary words. Therefore, it seems that some days of greater solemnity are to be excepted, in which the pastors have the faculty of abstaining from preaching. Having thus briefly explained the matter, the Most Reverend Fathers were left to decide what response should be given to the request of Bishop B.

RESOLUTION. The Sacred Congregation, on April 1, 1876, having considered the matter, gave the following response:

[*Latin ed. p. 493*]

Interpretation 493. Parish priests are obligated on Sundays and feast days to preach to the people, according to the prescription of the Council of Trent; nevertheless, it will be the prudence of the Bishop to grant a dispensation from this ordinance on certain more solemn days. FROM WHICH YOU MAY GATHER: I. That, according to the prescription of the Council of Trent, Session 5, chapter 2, concerning reforms, parish priests are bound, either personally or through others who are suitable, to preach to the people, at least on Sundays and solemn feast days, if they are legitimately hindered. II. That a contrary custom cannot be admitted, because, by divine command, parish priests are bound to feed the flock entrusted to them with the preaching of the Word of God on Sundays and solemn feast days. III. Therefore, such a custom is to be considered unreasonable and of no value, because the Council of Trent, in Session 5, chapter 2, concerning reforms, reproved it with these words: "Nor can custom impede the execution of this decree..." IV. However, it is left to the judgment and prudence of the Ordinaries sometimes to dispense from this obligation on certain more solemn days, especially when a reasonable cause arises. INTERPRETATION. April 1st and July 10th, 1876. Summary of the case. The Church of C. was raised to cathedral status in the year 1819 under the following law: namely, that twenty-four canonries would be established from the goods of the capitular treasury. "This, however," (it is read in the Bull of erection), "shall be observed in order of reparation, namely, that four Dignities (which are included in the aforementioned number) shall receive one hundred and eighty for each, and the twenty

Translated by churchlatin.ai, a product of Boyne Archives

Canons..."

[*Latin ed. p. 494*]

494. From the Sacred Congregation of Councils, it is decreed that for the Chapters (among which are the Penitentiary and the Theologian), one hundred [ducats] are assigned for each, and twelve [ducats] for each of the "Mansionaries," and that, for the Penitentiary and the Theologian, respectively, in proportion to their duties and offices, and for the time that they hold these positions, in addition to the aforementioned one hundred, twenty-four [ducats] should be assigned. And the Bull continues that, after deducting the aforementioned allowances, any surplus revenue, which constitutes one-third of the total sum, assigned to each Chapter, as stated, should be converted into daily alms for the poor. However, it must always be observed and maintained that, in the distribution made among the Dignitaries, and the Major and Minor Canons, and the "Mansionaries," the proportional ratio of the sums constituted for the Dignities, and for the Major and Minor Canons, and for the aforementioned "Mansionaries" must always be observed. Between the Chapter and the Penitentiary, a question arose in the year 1875, concerning whether the twenty-four [ducats] annually assigned to the Penitentiary constituted part of the "praebenda" [stipend], or rather constituted a separate and distinct salary, and that only as a debt due by reason of the office and duty, so that the distributions should be made to the Penitentiary taking into account the one hundred [ducats] of the "praebenda," and not the one hundred and twenty-four. The Chapter maintained that from the year 1819 until the year 1839, those twenty-four [ducats] had been considered as a salary. However, the Penitentiary argued that from the year 1834 until the beginning of the dispute, they had been retained as part of the "praebenda." Since the matter could not be resolved through amicable agreement, the Chapter, having recourse to legal means, petitioned that this question be resolved by the Sacred Congregation of Councils, interpreting the Bull of erection concerning the increase constituted for the Canons, the Penitentiary, and the Theologian.

[*Latin ed. p. 495*]

Interpretation 495. Synopsis of the Dispute. The patron of the Penitentiary Fund has based his argument on three foundations: Apostolic Letters, the Capitular Statute, and prescription. First, he attempts to refute the argument of the Chapter, which maintains that the twenty-four ducats added to the praebenda are not granted because of the service of the choir, but because of a specific office and duty, and therefore do not deserve the name of praebenda. Reciting the Apostolic Letters, he declared that, according to Canon Law and the Penitentiary Statute, praebendas are established; therefore, just as 180 ducats, 100 ducats, and 50 ducats acquire the nature of a praebenda, so too must the 24 ducats bear the same nature, because

Translated by churchlatin.ai, a product of Boyne Archives

there is one context, one period, and the same words. Furthermore, he states that, if the argument of the opposing party were to be considered valid, the Apostolic Letters would be contradicted, if they were to assert that the 24 ducats constitute not a praebenda, but a stipend or salary; for, as it is written: "The Penitentiary praebenda consists of 24 ducats, just as the Dignities consist of 180, the Canonries of 100, and the Mansionaries of 50." He then points out the text: "For the Penitentiary, beyond the aforementioned one hundred, there are another 24 ducats established." He argues that it cannot be understood otherwise, since the 24 ducats are presented as an accessory to the 100 ducats, for the principal use, which is more clearly expressed in the phrase "beyond the aforementioned one hundred, another twenty-four." With this established, he states that, according to the law, an accessory acquires the nature of the principal. He cites De Luca, *De Praeeminentiis*, book 2, chapter 9, and Henoch, *De Praesumptione*, book 4, presumption 110, number 36. He then presents a stronger argument, based on the words of the cited bull: "beyond the aforementioned 100, another 24 ducats are established," arguing that the word "another" implies that what is added not only bears the name that is added to it, but also all the qualities of the preceding name. Calvin, *Lexicon*.

DEFENSE OF THE CANONICAL AND PENITENTIARY FUNDS.

[*Latin ed. p. 496*]

496. Another term is used in legal interpretation. Nor do the words added by the Apostolic Letters, namely concerning stipends and offices, signify anything different, as if they constituted a payment or salary distinct from the praebenda; for it is understood that the praebenda is that from which someone derives the means to perform some office. *Glos.*, cap. 9, verb. *receperunt* from *Constit. Barbos, de canon, et dignit.*, cap. 26, no. 5, and following. *Calvin, lexicon, iurid.*, word *Praebenda*; and although *praebenda* sounds the same as *stipendium* and *salarium*, nevertheless, for a spiritual office it takes the name *praebenda*, while for a secular office it is called *salarium*, and *stipendium*. *Barbosa, iuris Eccl. univers.*, lib. 3, cap. 8, no. 4. The patron argues that the absurdity of the Chapter's claim greatly increases if we fail to notice that the rights by which we are governed do not allow revenues assigned to the office of Penitentiary to be considered under any name other than that of *praebenda*. And this, besides the Council of *Tridentinum*, Session 24, chapter 8, on reform, *Barbosa, Collect. Doct. in d. Concil. Trid.*, cap. 8, on Reform, no. 6, attempts to prove with the authority of the Holy Congregation of the Council in *Maioricen. Canonical. Theologalis*, where, although a certain stipend was established for the office of Sacred Scripture, it was nevertheless decided that the Bishop should unite it with the *praebenda*, whatever canonry might first become vacant. Furthermore, it

Translated by churchlatin.ai, a product of Boyne Archives

is clear by the law that what is established for the theological *praebenda* also applies to the penitentiary *praebenda*, as is shown from *Petrus in Constit. 2, Innocentii V*, no. 24, and in *Constit. Benedicti XIII*, "Pastoralis." To strengthen his argument, the patron also brings up the word used in the Apostolic Letters, "to dignities, to individual canonries, and to prebends." Indeed, that word was not used by chance, but to indicate that the 24th part is to be included in the calculation for the *praebenda* in the distribution and in the daily distribution.

[*Latin ed. p. 497*]

Interpretation 497: Proceeding to the second point, the defender draws his argument from the Capitular statute, which was established by the cathedral church within a year; and through this, he asserts that the matter is clear. Indeed, in the preliminary title, number 8, it is stated that the revenues of the Capitular estates, freed from the attached burdens, provide up to a sum of 180 florins for the Dignitaries, 100 florins for the Canons, 50 florins for the Mansionaries, 24 florins for the Canon Penitentiary, and the same amount for the Theologian. This constitutes a common fund, distributed daily according to the respective judgments of the praebendae. From these words, he says, no doubt remains that 24 florins constitute the integral portion of the praebenda of the Canon Penitentiary. Finally, addressing the third point, the defender spoke of the observance of this matter; and he asserted that forty years have now passed since the Penitentiaries have peacefully resided in this jurisdiction. Therefore, even if Apostolic letters were granted, and the Capitular statute were somehow to contradict them, observance must be maintained in this disputed question, following the opinion of Cardinal De Luca, *De Beneficiis*, section 67, number 6; and Piton, *Disputationes Ecclesiae*, 85, number 19. Even more so, because forty years of observance can change the very nature of the benefice, as Cardinal De Luca, *De Beneficiis*, section 27, number 18, states. From these and other considerations, the defender concluded that 24 florins constitute the integral portion of the praebenda of the Canon Penitentiary, and therefore must be included in the distribution.

DEFENSE OF THE CHAPTER. The advocate for the Chapter, presenting the arguments, brought forward the words of the Bull, which indicate that the daily distributions are to be divided proportionally – among the Dignitaries, Canons, and Mansionaries – according to the ratio of each praebenda. *Acta*, volume IX, page CV, line 32.

[*Latin ed. p. 498*]

498. From the Sacred Congregation, the Canon of the Council, as stated in the aforementioned Bull, provides for a grant of 100 ducats for the clergy, among whom is included a Penitentiary, not specifically named or distinguished, and he, too, must receive a portion equal to the canonical grant,

Translated by churchlatin.ai, a product of Boyne Archives

namely, 100 ducats. It is of no consequence to say that the Penitentiary also receives 24 ducats; for this is not by reason of the grant, but by reason of a service and office entirely distinct from the grant, as is stated in § Poenitentiariae, cited in the Bull, and explicitly by the Decree of the Consistory preceding that decree, with these words: "Furthermore, to the Theologians and the Penitentiary, in order to promote the observance of the canonical regulations, by reason of their respective offices, are assigned, in addition to the aforementioned grants, twenty-four ducats annually." Therefore, a comparison is almost established in this decree between what is due to the Penitentiary as a canon, and what is due to him as a Penitentiary; and it is asserted that his canonical grant is 100 ducats, while the 24 ducats are given by reason of his office and in addition to the grant. Therefore, the speaker concluded, since the proportion of distributions, and of other revenues, must be made with regard to the grants to Dignitaries, Canons, and Mansionaries, and not to others, therefore the 24 ducats do not increase the distributions of which he is speaking. He also attempted to support this with the Capitular Statutes drawn up shortly after the Bull was issued, dated November 20, 1820. In these, article 8 notes that all the grants are to be taken from the revenues of the Chapter: namely, for the Dignitaries, 180 ducats; for the Canons (and among these are included the Canon Theologian and the Penitentiary), 100 ducats; for the Mansionaries, 50 ducats. After these have been determined, and the expenses deducted, the Statutes state: "Whatever remains must form a common fund, under the nature of daily distributions, divisible in proportion to the respective grants indicated."

[*Latin ed. p. 499*]

Interpretation 499. The speaker stated that nothing of benefit is found in what is written in the Bull of Lucca concerning annexations; for the very idea of annexation necessarily implies a distinction between the thing annexed and the other to which it is annexed. And this distinction would be absent if Pope Pius VII, the author of the Bull, had intended the praebendalia of Lucca to be 24; then he would not have distinguished them in the Bull, but rather, having mentioned Dignities, Canons, and Mansionaries, and having stated that the Poenitentiarium and Theologus received their praebenda according to 124 ducats, not 100, the defender noted that this observation was of little benefit to the opposing side. For, although the Ordinary approved in 1838 that the Poenitentiarium could receive distributions according to 124 ducats, nevertheless, from the testimony of the archives, it is known that the Poenitentiarium and the Theologus, from the year 1819, namely from the founding of the Cathedral, until the year 1838, received distributions according to 100 ducats. While the best foundation for the interpretation of the law is custom, as Lotter states in *De Re Beneficiaria*, book 2, question 1, number 125; Cardinal De Luca, in *De Iure Patronato*,

Translated by churchlatin.ai, a product of Boyne Archives

discourse 60, number 3; and Tondut, in *Quaestiones Beneficiariae*, part 8, number 42; nevertheless, the author claims greater authority if, as in this case, it is the custom that is nearest and most contemporary. Piton, in *Disputationes Ecclesiasticae*, discourse 159, number 44. We have. Finally, the defender stated that the Pontifical Bull is endowed with a nullifying clause; therefore, to invalidate what was established therein, a thirty-year prescription was not necessary, but rather, a completely unmemorable prescription would be required. Garzia, in *De Beneficiis*, part 7, chapter 10, number 36. Pax Jordan, in *Lucubrationes Canonicae*, volume 2, book 10, title 27, number 11. However, since the matter concerns the moral body, or the Chapter, to which prejudice would be caused in the receipt of its own distributions by the Poenitentiarium, neither the hundred-year prescription nor the unmemorable prescription, if it existed, would suffice. This is what Piton alleges in *De Controversiis Patronatus*, number 22, that against one's own rights, the prescription does not apply, because predecessors cannot be prejudiced.

[*Latin ed. p. 500*]

From the Sacred Congregation of Councils, number 500, it is stated that, concerning matters pertaining to successors not yet born, nor to actions not yet begun, it is easily understood. Having considered these and other matters on both sides, the following question was proposed: Whether the twenty-four *Praebendae* of the Penitentiary should be considered as such that distributions should be added in the case of a *resolutio*. The Sacred Congregation of Councils, on the first of April, 1876, after due deliberation, gave the following response: The delay arose from a serious doubt concerning the authenticity of the statutes; for the document presented by the Chapter did not correspond with that produced by the Penitentiary. Therefore, after the matter was examined, the case was again proposed under the same formula of doubt. To this doubt, the same Sacred Congregation of Councils considered it appropriate to respond on the tenth of June, 1876. CONTINUATION OF THE CAUSE. Affirmative, moreover, for the Theological *Praebenda* and all that follows: I. Whatever pertains to the honorable support of a Canon of the Penitentiary, the institution, and all other things pertaining to his spiritual office, also pertains to the Canon Theologian, according to the Constitution of *Benedict* XIII, "Pastoralis officii." II. Therefore, the Sacred Congregation of the Penitentiary, while resolving the question concerning the Penitentiary, also included the Canon Theologian in its response, to whom *Praebendae* are attached. III. It is to be gathered from the Council of Trent, Session 24, chapter 8, and from the Doctors, that the revenue is to be assigned for the office of the

Translated by churchlatin.ai, a product of Boyne Archives

Penitentiary.

[*Latin ed. p. 501*]

From the Sacred Congregation of Bishops and Regular Canons, concerning the assignment of a parish: 501. No assignment of a parish can be made by any other means than under the title of "praebenda." IV. Furthermore, it is established by canonical jurisprudence that the term "praebenda" is given only to that office to which some spiritual duty is attached; while the terms "stipendium" and "salarium," although they may sound the same as "praebenda," belong properly to a purely secular office. V. Therefore, even that which is granted to a Penitentiary and a Theologian, due to their spiritual offices, can only be received under the title of "praebenda." FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS, CONCERNING THE ASSIGNMENT OF A PARISH. June 2, 1876. Summary of the case. The parish priest of Saint Julian the Martyr, from the Diocese of M., on March 13, 1873, having presented a petition, showed to the Most Holy Father the following: He stated that he had a parochial church which was inadequate for the number of the faithful, and which was unsuitable for divine worship; namely, that it was in great need of restoration. He also reported that the sacred vestments and sacred furnishings were rotting from dampness; so that, according to the advice of physicians, it would not be prudent for him to have his residence in the adjoining sacristy. Therefore, he requested that he be granted, with prior Apostolic permission, to transfer the parish to the church dedicated to Saint Michael the Archangel; since that church is sufficiently spacious and suitable for the number of the faithful. He stated that such a church had formerly been given as a gift by the Sodality of Saint Michael the Archangel to the brothers of the Third Order of Saint Francis, under various conditions; which-

[*Latin ed. p. 502*]

"02 From the Sacred Congregation of Bishops and Regular Canons, one case was deemed suitable. There had been an agreement regarding common concord, namely, that if, at some future time, the Religious should no longer wish to serve the divine cult in that church, or if they were, for whatever reason, forcibly expelled from it (as now happens in Italy under the government), the same church would revert to the jurisdiction of the Sodalitium, with all its rights and appurtenances. The Parish Priest stated that the Sodalitium had already taken almost the entire church property from the hands of the Demesne and had offered him the same, with full powers, with the intention that the parish be transferred there. The Ordinary, from whom the Sacred Congregation had requested a report on those with an interest, presented deductions, which in this case were presented by the Provincial Father of the Third Order of Saint Francis, and which were of

Translated by churchlatin.ai, a product of Boyne Archives

the following tenor: The Religious should cede the use of the church to the Parish Priest, until they returned there; however, the Order would retain, by right of ownership, over the same church and its goods. He also added the obligation of reclaiming from the Demesne certain goods of the Convent; so that, at times, they might serve the divine cult, and the obligation of restoring the church and goods to the Brothers, in the event that they should return to their former state. Furthermore, the Ordinary reported that the Sodalitium, called the Most Holy Rosary, was asserting its right in the current parish church and was opposing the aforementioned transfer. Therefore, he continued, I believe it would be fitting to grant the petition of the Provincial Father, subject to certain conditions; namely, that the church of Saint Julian remain a parish church; and that there be a baptismal font there; and that Masses, according to the attached obligations, and sacred functions be celebrated there, and that the divine word be imparted to the faithful therein. A concise summary of the discussion: The Patron sought to ensure that the rights of his client remained intact, and initially attempted to prevent such a transfer of the parish, and the rights of the Sodalitium of the Most Holy Rosary."

[*Latin ed. p. 503*]

Translation of a parish is not always useful. It states that, in order for a new parish to be established, there must be serious and evident reasons, such as the distance of the places, or the excessive difficulty of the parishioners in accessing the parish to receive the sacraments. This is taught by the Doctors in Chapter IV, Session XXI, concerning reforms, of the Council of Trent: "In those places where, due to the distance, or the difficulty of the parishioners in accessing the parish without great inconvenience to receive the sacraments and hear divine services, new parishes may be established, even without the consent of the Rector, according to the form of the Constitution of Alexander III, which begins with 'Ad audientiam'." It states that the mere increase in the number of parishioners is not sufficient to induce the division of a parish, since this increase could be provided for by a chaplain or a coadjutor. But it is also required that there be a great distance, or another evident necessity, such as if there were a river or stream between the church and a part of the people subject to it, which, by flooding, obstructs the way to such an extent that the sick are sometimes forced to die without the sacraments. Antonelli, Book III, Chapter 8, paragraph 26; Cardinal De Luca, Annotations to the Sacred Council of Trent, Discourse 16, paragraph 3. Furthermore, the Advocate states that, in addition to the reasons of manifest necessity and utility required for the establishment of a new parish, it is necessary to follow the disposition of Session 21, chapter 7, concerning reforms, of the Council of Trent, since this concerns the translation of a parish. For by this chapter, the Ordinaries are granted, as an extraordinary measure, the right of translation; although

Translated by churchlatin.ai, a product of Boyne Archives

other remedies have been tried in vain – ibid. Moreover, it is very important to ensure that those things dedicated to the sacred ministry do not become obsolete through the passage of time, and do not fall from human memory: therefore, the Bishops, even as delegates of the Apostolic See, may transfer simple benefices, even those of patronage, from churches that have collapsed due to age, or other reasons, and because of their poverty.

[*Latin ed. p. 504*]

504 From the Decree concerning Bishops and Regular Canons, it is stated that those who are interested may be called together, in cathedrals or other churches within their territories, or, at their discretion, in neighboring parish churches, and that those churches which have collapsed should be restored and rebuilt. While the Council of Trent suggested various reasons for the restoration of churches, it ultimately states: "If, through extreme poverty, all [namely, the patrons and the parishioners] are burdened, they may be transferred to cathedrals or neighboring churches." Therefore, the advocate stated that a transfer cannot be permitted unless the church in question has collapsed due to age or other reasons, and is so impoverished that it cannot be restored. Furthermore, it cannot be said that a parish church is too small, since for two and a half centuries it has served the spiritual needs of the people. Provision for an increase in the number of the faithful can be made in other ways, such as through an assistant priest or a chapel, as indicated by the Council of Trent, Session 21, chapter 4, concerning restoration. Nor could the parish priest have objected to the restoration because the church had been made suitable for divine worship; for, as noted by De Luca in his annotations to the Council of Trent, discourse 18, number 8, the care of the restoration regularly pertains to the rector of the church. Therefore, since the church is neither collapsing due to age, nor is it, in fact, impoverished (because the Confraternity of the Most Holy Rosary and the parish priest are jointly responsible for necessary restorations), there are no grounds upon which a requested transfer can be granted. However, the advocate argued that this transfer would not be beneficial, since the church of Saint Julian is located in the center of the town. Therefore, since the transfer is neither necessary nor beneficial, it may be considered invalid according to rule 64. Those things which are contrary to the law must, of necessity, be considered as invalid. The advocate then proceeded to demonstrate that such a transfer could not be granted, because it would violate agreements made with the Confraternity of the Most Holy Rosary. In such a case, both the parish priest and the Confraternity are jointly responsible for providing...

[*Latin ed. p. 505*]

Translation of the parish [to another location] 505. Concerning the needs of the Church, if the parish priest were to be excused from his obligation to

Translated by churchlatin.ai, a product of Boyne Archives

remain in his church, neither could the Sodalitium [a religious association] contribute to that transfer in proportion to its share. Finally, the Orator [a cleric or speaker] asserted that such a transfer could not be granted, since it is prohibited by the Council of Trent, and would violate the rights of others. The Church to which the transfer of the parish was requested belonged to the Religious of the Third Order, and now, by civil law, has returned to the power of the Sodalitium of St. Michael. But the Council of Trent, Session 25, chapter 9, forbids the uniting of a parish benefice with a church under the patronage of another. There it says: "Furthermore, additions made through the means of union to free benefices to churches subject to lay patrons, whether to parish churches or to any other benefices, even simple ones, or dignities, or hospitals, so that the aforementioned free benefices of the same nature are made to be united with those with which they are united, and are constituted under patronage; these, whatever authority may have granted them, are understood to have been obtained by stealth, together with the unions themselves." Moreover, it is not without reason to observe, said the Orator, that the rights of the Religious still remain, according to ecclesiastical laws, intact and secure; because civil law could not render them null and void. Therefore, it is certain that the church of St. Michael still remains under the canonical jurisdiction of the Brothers of the Third Order; and that no one doubts that it enjoys the privilege of exemption. THE RIGHTS OF THE PARISH PRIEST OF ST. JULIAN. The patron [of the church] claims that the parish priest was forced to transfer the parish, temporarily, to the Church of St. Michael, due to the contagion of the cholera disease; therefore, if he carried out this transfer of his own accord, he nevertheless seems to be excused by necessity. To demonstrate the necessity of this transfer, he asserted that the current church is incapable of accommodating the seven thousand parishioners because it is too small and, therefore, not fitting for the Bishop to administer the sacrament of Confirmation there.

[*Latin ed. p. 506*]

506 From the Decrees of Bishops and Regular Canons. While the Church of Saint Michael is sufficiently spacious and perfectly suited for the sacred functions; it is easily accessible to the people, and no merchants or travelers disturb the faithful while they are at prayer; which was constantly the case in the other church. However, the municipal authorities were unwilling to pay the necessary expenses unless the church were relocated, from which it would result that a dispute would arise between the ecclesiastical and civil authorities, the income of the parish priest and chaplain would be reduced, and it is probable that the church would have to be closed to divine worship. These matters are confirmed by Lotter, in *De re benefic.*, book 1, question 28, paragraphs 78 and following, and by the Decree of the Sacred Rota of Krakow, January 15, 1725, *Calcagnino*, and by the

Translated by churchlatin.ai, a product of Boyne Archives

decree from Amerina, May 8, 1706; in which the difficulty experienced by the parishioners in reaching their old church was discussed. And to the question: Whether there is a reason for the requested relocation, the Sacred Congregation responded: Affirmative, for the construction of a new church, and in the meantime, all parochial duties should be performed in the Church of Saint Giles. A similar decision was made in Aversa, regarding the relocation of the parish church, on December 7, 1709. To address the difficulties that the city of Aversa presented, as mentioned in chapter 7, session 21, of the Council of Trent, it was stated that even if the matter concerned a permanent relocation, two extreme situations could arise: namely, a deficiency in the parish income, and the indigence of the parishioners who would be unable to contribute to the restoration of the church. Indeed, the assets and tithes of this church have been reduced, and the municipality itself bears the expenses of divine worship and provides a suitable sum for the parish. Regarding the agreements between the parish priest and the sodality, for which half the expenses were to be borne by each party, the Ordinary asserted his authority. The Bishop had decreed that the sodality itself, in order to avoid sad consequences and to achieve a greater...

[*Latin ed. p. 507*]

Translation 507 of the parish should have acquiesced to the transfer, and should have provided suitable assistance to the parish of *media* along with the parish priest. But since it did not do so, it must suffer the consequences of its opposition, as is stated in canon 5, final distinction, 14. Many things ought to be tempered either for the necessities of the time, or for the consideration of ages. The Bishop presented the following reasons: The revenues of the sodality were such that they could suffice for the divine worship, and for the maintenance of the building. Furthermore, if the Brothers of the Third Order were to return to their former state, the parish could either coexist with the religious order, or move to *S. Iulianum*, so that the necessary renovations could be carried out in that church through the sodality, or seek another church. After these considerations were made on both sides, the following proposal was made to clarify the doubt: Whether and how the parish of *S. Michaelis* should acquiesce to the requested transfer. RESOLUTION. The Sacred Congregation of the Holy Office and the Holy Roman Church, after discussing the matter on June 2, 1876, decided: "It is permissible for the parish priest of *Iulianum* to perform some parochial functions in the church of *S. Michaelis*, according to the determination of the Bishop, while preserving the rights of the Third Order of *S. Francisci*, the permanent parochial title in the church of *Iulianum*, and the firm obligation of the parish priest to contribute, along with the confreres of the Most Holy Rosary, to the repair of the church as soon as possible." THEREFORE, IT IS UNDERSTOOD: I. From the Council of Trent,

Translated by churchlatin.ai, a product of Boyne Archives

it is required for the transfer of a parochial church that the church...

[*Latin ed. p. 508*]

508 From the Sacred Congregation of Indulgences: If a parish church has collapsed, either due to age or other causes, and cannot be restored due to lack of funds, this may occur.

11. Therefore, such a transfer is usually granted by the Holy See as an extraordinary remedy, provided that the Bishop has first exhausted all other remedies.

111. And since the remedy of transfer is extraordinary, it is not usually granted unless the Bishop has first attempted to restore the collapsed church from its own resources; and if this is not possible, unless he has first called upon the patrons and the parishioners themselves, and compelled them by all appropriate means to contribute to this restoration.

IV. In order for a new parish to be established, grave and evident reasons must be required, as stated in the Council of Trent, such as the distance between places and the great difficulty, due to the separation of roads, for the faithful to reach the parish church.

V. Indeed, the supreme and principal norm by which the erection of a new parish church is granted is this: that the eternal salvation of the Christian faithful should not be endangered by serious difficulties hindering access to the sacraments and the divine services.

VI. In the aforementioned case, all these elements were not present, by which a zealous Sacred Congregation could have granted a full and permanent transfer; moreover, it opposed the rights of the Religious of the Third Order, and the agreements made between the parish priest and the Sodality of the Most Holy Rosary.

FROM THE SACRED CONGREGATION OF INDULGENCES: A WARNING.

In order to inform pious readers about the requirements for obtaining the indulgences granted to those who recite the hymn "Veni Creator," we have included page 163, Volume of this work, the Brief of Pope Pius VI drawn up for this purpose. Now, another...

[*Latin ed. p. 509*]

A brief granting [of indulgences] 509. A brief of the same Pontiff is presented to us, so that it may be made public, as it pertains to the same matter. We believe that adherence to this should be maintained, because it is later [in time]. MOST HOLY FATHER, POPE PIUS VI, BRIEF, GRANTING VARIOUS INDULGENCES TO THOSE WHO RECITE THE HYMN "VENI CREATOR." Pius Papa VI. For perpetual remembrance. It is incumbent upon Us to be deeply concerned, and to devote all our care and thought to

Translated by churchlatin.ai, a product of Boyne Archives

this, in these times, when the Church of Christ is beset on all sides by a war so grave as to be infamous, to which We, by divine benevolence, presume that Her faithful children are optimally protected and equipped against the attacks and snares of the enemies. For certainly, they cannot be instructed in any more opportune manner of arms than by prayers, especially those addressed to that Paraclete, and the Spirit of Truth, who will remain with His Church forever, a singular and excellent benefit of Christ; without whose true help, no one can say, "Lord Jesus, who helps our weakness, through whom charity is diffused in our hearts." Therefore, as most holy men have been accustomed to do in similar difficulties and distresses, We exhort and encourage all the Christian faithful, with paternal love and zeal, to do the same. And therefore, confident in the mercy of Almighty God, and in the authority of the blessed Apostles Peter and Paul, We grant to all and each Christian faithful of both sexes, who are truly penitent and have confessed, and who have received Holy Communion, that if, once or multiple times in a day, they have devoutly recited the hymn "Veni Creator Spiritus, Mentes," or the sequence "Veni Sancte Spiritus," or even in any other language, and if they have offered devout prayers to God for the concord of Christian princes, the eradication of heresies, and the exaltation of the Holy Mother Church, they shall, on any day of the month of their choosing, receive a plenary remission of all their sins, by each Christian faithful.

[*Latin ed. p. 510*]

510 From the Sacred Congregation of Indulgences, We grant, with merciful charity in the Lord, an Indulgence and remission [of sins]. Furthermore, to the same faithful who, contrite, recite the aforementioned Hymn or Sequence on the Sunday of Pentecost, and on each day within that Octave, as mentioned above, and who pray, three hundred days; and on any other day of the entire year, whenever they perform this action, one hundred days of the penitences prescribed to them, or of any other penitences owed, according to the usual form of the Church, We remit. We grant that all of these, and each of these Indulgences, remissions of sins, and relaxations of penitences, may also be applied, for the benefit of the souls of the Christian faithful who, united with God in charity, have departed from this life, as a suffrage. This applies even to those who do the contrary. This is valid for the present and all future times. We decree that these present Letters, or copies thereof, even printed, if signed by the hand of a public Notary, and sealed with the seal of a person constituted in ecclesiastical dignity, shall have the same full faith as if the original documents were exhibited or shown. Given in Rome, at St. Peter's, under the Fisherman's Ring, on the twenty-sixth day of May, in the year one thousand seven hundred and ninety-six, in the twenty-second year of Our Pontificate. R. Card. Braschi de Honestis. *[Seal of the Fisherman's Ring]* Julius Maria, etc. Let it be

Translated by churchlatin.ai, a product of Boyne Archives

published in the usual form of the Church, etc., this day, the twelfth of August, 1796. F. X. Archbishop of Larissa, Vicar General.

[*Latin ed. p. 511*]

A brief decree 511: By which the Indulgences granted for one Diocese, concerning the Holy Scapular of the Most Sacred Heart of Jesus and the Most Pure Heart of the Blessed Virgin Mary, are extended to other Dioceses. PIUS PP. IX. FOR PERPETUAL REMEMBRANCE. Our venerable brothers, Felix, Bishop of Nante, and Alexander Leopoldus of Engolsmen, have explained to us why this is necessary. By Apostolic Letters dated the sixteenth day of the month of February in the year 1872, certain Indulgences had been granted to the faithful of the Diocese of Lucionen, who, having received the sacred Scapular of the Most Sacred Heart of Jesus and the Most Pure Heart of the Blessed Virgin Mary, conferred upon them by the Priests of the Congregation of the Sons of Mary Immaculate, whose principal house is in that Diocese, according to the formula approved by the Congregation of Sacred Rites on the eighteenth day of the month of January of that year. Indeed, since the Priests of the aforementioned Congregation also have houses and engage in missions and spiritual exercises in other French Dioceses, in order to promote the eternal salvation of the faithful of Christ; our venerable brothers, whom we have mentioned above, humbly petitioned us, that We might deign to grant these same Indulgences to the faithful of the remaining Dioceses of France, in which the Priests of the aforementioned Congregation exercise their sacred ministry. Therefore, wishing to favorably comply with such pious requests, and confident in the mercy of Almighty God and in the authority of the Apostles SS. Peter and Paul, We grant to all and each faithful of both sexes who are truly penitent and have confessed their sins, and who have received Holy Communion, on the day on which they receive the scapular in honor of the Most Sacred Heart of Jesus...

[*Latin ed. p. 512*]

512 From the Sacred Congregation of Indulgences of the Most Holy Heart of the Virgin Mary, it is decreed that any priest who has received the blessing and has accepted the scapular of this Congregation in those dioceses of France where he either resides or exercises the sacred ministry with the consent of the respective Ordinary, provided that the same scapular has been blessed and bestowed according to the formula approved by the Congregation of Most Holy Religious Rites, under the Most Reverend Cardinals presiding over it, on the eighteenth day of January of the year 1872, shall gain a Plenary Indulgence; and also, to those same faithful, at the hour of their death, if they are also contrite and have confessed, and have received Holy Communion, or, if they are unable to do so, at least if they have invoked the name of Jesus with a contrite

Translated by churchlatin.ai, a product of Boyne Archives

heart, they shall also gain a Plenary Indulgence; furthermore, to those same truly penitent and confessed individuals who have received Holy Communion, and who devoutly visit any church on the Sunday after the octave of the Solemnity of the Most Holy Body and Blood of Christ, and on the day on which the feast of the Most Holy Heart of the Blessed Virgin Mary is celebrated according to the calendar of the respective diocese, and there offer devout prayers to God for the concord of Christian princes, the eradication of heresies, the conversion of sinners, and the exaltation of the Holy Mother Church, on that day, we grant, with merciful kindness in the Lord, a Plenary Indulgence for all their sins. We declare that all these Indulgences, and the remissions of sins, can also be applied to the souls of the Christian faithful who, united with God in charity, have departed from this life, as a form of suffrage. This applies to all, notwithstanding any opposition. These present decrees are valid for the present, and for all future times. We wish that copies, or printed examples, of these letters be provided, signed by a public notary, and sealed with the seal of a person holding an ecclesiastical office, in exactly this manner.

[*Latin ed. p. 513*]

513 Let the faith be applied which would be applied to those present if they had been exhibited or shown. Given in Rome, near St. Peter, under the seal of the Fisherman, on the third day of March, 1876, in the thirtieth year of Our Pontificate. For the Most Reverend Cardinal A[.] S[.] Q[.] T[.] J[.] N[.] I[.] O, the Substitute. L. © S. In accordance with the original. Lucioni, June 5, 1876. L. © S. M. Garreau, Vicar General. These present Apostolic Letters were exhibited in the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, according to the decree of May 14, 1856. As witness. Given in Rome, from the same Secretariat, on September 20, 1876. Dominic Sarra, Substitute. By this, an indulgence of 300 days is granted, at the request of the Most Eminent Archbishop, to a certain pious Society being established in the Diocese of Firmana, for the promotion of the external worship of the Most Holy Sacrament. PIUS PP. IX. FOR PERPETUAL REMEMBRANCE. For all religious acts of piety are salutary to the faithful, and especially those which refer to the Most Holy Sacrament of the Eucharist; for it is certain, *exacta*, vol. IX, cap. CV, no. 33.

[*Latin ed. p. 514*]

514. The most excellent Indulgence is a most certain pledge of the charity of Jesus Christ, our Lord, from which flow to us immense benefits of God's goodness. Therefore, our beloved son, Philip, Cardinal De Angelis of the Sacred Roman Church, Bishop of Firmanae, having, by Apostolic concession and dispensation, offered humble prayers in our name, on behalf of the Pious Society, for the promotion of external worship of the Most Holy

Translated by churchlatin.ai, a product of Boyne Archives

Sacrament of the Eucharist in the parish church of Saint Francis in the city of Firmanae, which is to be canonically erected, that We might deign to grant a partial Indulgence of three hundred days to all the Christian faithful who shall devoutly visit the Sacrament and pray before it; We have, with a willing heart, acceded to these pious requests. Therefore, We grant that to all Christian faithful, of both sexes, who shall, with at least contrite hearts, devoutly visit the Most Holy Sacrament of the Eucharist in any church they choose, and shall recite before It the Our Father, the Angelic Salutation, and the prayer commonly called "Gloria Patri" five times, and furthermore shall repeat these same prayers once for the concord of Christian princes, the extirpation of heresies, the conversion of sinners, and the exaltation of the Holy Mother Church, We remit, in their place, three hundred days of the penitences enjoined upon them, or of any other penitences they may owe, according to the custom of the church. We also grant that these relaxations of penances may also be applied, as a form of suffrage, for the souls of Christian faithful who, united to God in charity, have departed this life. This applies to all, without exception. For the present and for all times to come. We decree that these present letters, having been transcribed, or copied, and signed by the hand of a public Notary, and sealed with the seal of a person holding an ecclesiastical office, and also printed, shall have the same full force and effect as if the original documents were exhibited or shown. Given at Rome, at Saint Peter's.

[*Latin ed. p. 515*]

Brief 515, issued under the seal of the Fisherman on the fifteenth of September, in the year one thousand eight hundred and seventy-six, in the thirty-first year of Our Pontificate. To the Most Reverend Cardinal ASQUINIO. L. © S. D. Jacobini, Substitute. These apostolic letters were presented in the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, according to the decree of May 14, 1856. In witness whereof, etc. Given in Rome, from the same Secretariat, on the twentieth of September, 1876. Dominicus Sarra, Substitute.

BRIEF, BY WHICH A PLENARY INDULGENCE IS GRANTED TO THE FAITHFUL OF THE DIOCESE OF BRUGES FOR THE OCTAVE OF THE FEAST OF ALL SAINTS. PIUS PP. IX. FOR THE PERPETUAL REMEMBRANCE OF THIS.

Desirous of promoting the spiritual well-being and consolation of the faithful as much as we can in the Lord, and having received the pious prayers of the venerable brother John Joseph, Bishop of Bruges, we most benignly grant, to all and each Christian faithful, of both sexes, truly penitent and having confessed, and having received Holy Communion, who, from the vigil of the Feast of All Saints until the ninth day of the month of November, at their own discretion, within those ten days, shall have devoutly visited their own parish church, and there shall have offered pious

Translated by churchlatin.ai, a product of Boyne Archives

prayers to God for the concord of Christians, the extirpation of heresies, the conversion of sinners, and the exaltation of the Holy Mother Church, a plenary remission of all their sins, and also for the souls of the Christian faithful who are in charity.

[*Latin ed. p. 516*]

From the Acts of the Consistory, those who have migrated from this diocese by means of a canonical appeal may, we mercifully grant in the Lord, apply [for admission]. To those who act contrarily, we grant nothing, notwithstanding any objections. This applies perpetually, for all times to come. We decree that to these present Letters, or copies thereof, even if printed and signed by the hand of a public Notary, and sealed with the seal of a person holding an ecclesiastical office, the very same faith shall be given, as would be given to the present Letters themselves if they were exhibited or shown. Given in Rome, at St. Peter's, under the Fisherman's ring, on the twenty-sixth day of September, in the year one thousand eight hundred and seventy-six; in the thirty-first year of Our Pontificate. For the Most Reverend Cardinal Asquini. D. Iacobini, Substitute. FROM THE ACTS OF THE CONSISTORY, FROM THE PROPOSITIONS OF THE CONSISTORY. On December 18, 1876. The Most Holy Lord held a secret Consistory on the morning of December 18th in the buildings at the Vatican, when the Most Reverend and Venerable Cardinal Caterini requested the Diaconate of St. Mary in Via Lata, retaining the other Diaconate of St. Mary de Scala; and, as is customary, the Most Reverend and Venerable Cardinal John Simeon, created on March 15, 1875, and publicly announced on September 7th of the following month, proposed the following Churches: The Metropolitan Church of St. Savior in Brasilia, vacant due to the death of the Very Reverend Father Emmanuel Joachim de Silveira, the last Archbishop of that diocese, who died outside the Roman Curia. The Most Holy Lord transferred it to the related Metropolitan Church, the Very Reverend Father Joachim Gonçalves.

[*Latin ed. p. 517*]

From the Consistorial Decrees 517 concerning Azevedo, whose qualities were approved by the Holy Apostolic See, it is known that he was Prefect of the Cathedral Church of Goyás in September of the year 1865. In that part of South America, which includes the extensive domain of Brazil, there is a bay formed by the ocean, now called Bahia of All Saints, and where the city of São Salvador is built, which, being full of hills, quite extensive, and situated near the sea, enjoys a healthy air, and has a circumference of approximately one league, and is inhabited by nearly one hundred and twenty thousand people under the dominion of the aforementioned Most Serene Emperor. The Metropolitan Church is quite extensive and built in the ancient style, and boasts the title of SS. Salvador, and to it are subject

Translated by churchlatin.ai, a product of Boyne Archives

eleven suffragan Sees. Its Chapter comprises five dignitaries, of whom the first, after the pontifical, is the Dean, followed by nine full and four half-canonries, with a Penitentiary, and in addition, twelve chaplains, and other priests and clerics devoted to the work of the divine ministry. Through one of the canons, the care of souls is exercised within the Metropolitan Church itself. Furthermore, there are eleven parish churches in the city of São Salvador, equipped with baptismal fonts, a collegiate church, eight monasteries for men, and four for women, several lay sodalities, two hospitals, ten almshouses, two seminaries, and a pawnbroker's. The extent of the Archdiocese stretches to approximately two hundred leagues, encompassing the provinces of Bahia and Sergipe, and many other parishes.

The Cathedral Church of Carthage is vacant, due to the death of the Most Reverend Francis Landeiray Sevilla, the last Bishop, who died outside the Roman curia. The Most Holy See has transferred the presentation to the aforementioned Church to the Reverend Father Didacus Marianum Alguacil and Rodríguez, whose qualities have been approved by the Holy Apostolic See, who, either as Prefect of the Church of Pacense in the year 1858, or in December of the year 1861, was transferred to the Church of Vitoria. The seat of the Episcopate of Carthage is located in the city of Murcia, which is pleasantly situated in the plain near the river Sagura, and is inhabited by approximately eight thousand families, or nearly seventeen thousand, including the suburbs, under the temporary dominion of the aforementioned Most Serene King. The Cathedral Church, of solid construction, is dedicated to the Two Virgins, Mary.

[*Latin ed. p. 518*]

518 The Acts of the Consistory concerning the title of Grace boast that the Archbishop of Granada serves as a suffragan, according to the Apostolic Letters "ad Vicariam" dated September 9, 1851. His chapter includes five dignities, as recognized by previous Apostolic Letters: after the pontifical dignity, first is the Deanery; then four Canonries, with a theologian and a penitentiary by office; nine by grace; and fourteen serving in divine offices. Eleven parishes are counted, each with a baptismal font; seven are monasteries for women; some are lay sodalities; there is a hospital, a pawnbroker's, and two seminaries. The extent of the diocese stretches twenty-three leagues in latitude and thirty-four in longitude, encompassing the collegiate church and other places. The CATHEDRAL CHURCH OF CAPUTAQUENSIS and VALLEN is vacant, due to the death of the Most Reverend John Sicilian, the last bishop outside the Roman curia: the Most Holy See has transferred to the aforementioned church the Reverend Father Peter Maglione, whose qualities have been approved by the Apostolic See, who was the prefect of the church of Cariatensis in June 1874. The city of Caputaquii is located in the province of Principatus citerions, in the territory of Naples, and was taken from the ancient city of the same name in the

Translated by churchlatin.ai, a product of Boyne Archives

twelfth century, and almost destroyed by enemies. Since it never possessed what was suitable and necessary for an Episcopal residence and adornment, the seat of this bishopric was established in the town commonly called Vallo, from which it subsequently took the names Caputaquense and Vállense. Thus, the town of Vallo is adorned with the title of a city! Located a short distance from the seashore, it is almost in the middle of the current extreme limits of the Caputaquensis diocese, towards the Salerno Gulf, and boasts excellent houses, inhabited by nearly six thousand citizens. The Cathedral Church bears the title of the Martyr Saint Pantaleon, and presents a sufficiently large and fitting building, and serves as a suffragan to the Archbishop of Salerno. Its chapter includes two dignities, after the pontifical dignity, first is the Archdeaconry; then twelve Canons, with a theologian and a penitentiary; six beneficed officials; and other priests and clerics serving in divine offices. Through the second dignity of Archpriest, assisted by six officials, the care of souls is exercised within the Cathedral. Furthermore, three parish churches are counted in the aforementioned city.

[*Latin ed. p. 519*]

From the Consistorial Decrees, number 519, there are two monasteries of men, one of monks, several lay sodalities, and a seminary; a hospital and a house of charity are lacking. The diocese is sufficiently extensive and encompasses many places. The CATHEDRAL CHURCH of Ature, is vacant, due to the death of the Most Reverend Louis Mary Oliver, the last bishop, who died outside the Roman curia. The Holy See has transferred the nomination to the most illustrious Man, Maurice de MacMahon, Duke of Magenta, and has presented him to the newly appointed Reverend Father Victor, John Baptist, Paul Delannoy, whose qualities have been approved by the Apostolic See, who, since the month of 1872, was prefect of the Church of Saint Dionysius, or Reunion. The city of Ature is located in the province of Vasconia, and is built on a plain and on a hillside near the river Aturum, enjoying a favorable climate, and is inhabited by approximately four thousand people under temporary French rule. The Cathedral Church, dedicated to the Blessed Virgin Mary, has a mixed structure and requires no repairs, and it serves as a suffragan to the Archbishop. It has nine titular canons, along with a theologian and a penitentiary, forming its chapter, which also includes several honorary canons, who, along with other priests, choir boys, and students from the seminary, participate in the divine services on feast days. The Archpriest-Canon, assisted by a vicar, exercises pastoral care in the Cathedral. Furthermore, there is no other parish church in the city of Ature, nor a house of charity, but there is a religious house for women, a hospital, and a large and small seminary. The territory of the diocese encompasses the entire province of Agri Syrtici, and includes many places. The CATHEDRAL CHURCH of Vitoria is vacant, due to the transfer of the Reverend Father Didacus Mariani Alguacil and Rodríguez

Translated by churchlatin.ai, a product of Boyne Archives

to the Cathedral See of Carthage. The Holy See has presented him to the newly appointed Reverend Father Sebastian Herrero and Espinosa de los Monteros, whose qualities have been approved by the Apostolic See, who, since the month of September 1875, was prefect of the Church of Concha. Vitoria, in Spain, is the capital of the province of Alava, built on a plain at the foot of Mount Saint Adrian, in a healthy location under the sky, and is well-maintained with buildings, elegance, and commerce, and has approximately twenty thousand inhabitants.

[*Latin ed. p. 520*]

520 In the Acts of the Consistory, it is stated that the city, inhabited by thousands of souls and under the temporary dominion of the aforementioned Most Serene Catholic King, boasts a Cathedral dedicated to the Holy Mary, which, by its size, decoration, and Gothic structure, is sufficiently commendable, requiring no repairs, and which serves as a suffragan to the Archbishop of Burgos. Its Chapter, according to the Apostolic Letters "Ad Vicariam" dated September 9, 1851, comprises five dignitaries, after the pontifical office: first, the Dean; then four Canons, two of whom are theologians and two are confessors by office; seven honorary Canons; and twelve beneficed members. The care of souls in the Church is exercised by a priest. There are three parish churches, each equipped with a baptismal font, a convent of women, several lay sodalities, two magnificent hospitals, a renowned hospice for the poor, and a seminary with students; however, a house of piety is lacking. The territory of this diocese encompasses the three provinces of Alava, Guipúzcoa, and Biscay, extending approximately forty square leagues, and includes about seven hundred ninety-six parishes and one thousand five hundred locations.

The CATHEDRAL CHURCH of Nerit, vacant due to the voluntary and willing resignation of the Reverend Father Salvatore Nappi, which was carried out and accepted by His Holiness, has been filled: His Holiness has appointed the Reverend Michael Mautone, born of legitimate, Catholic, and honorable parents in the town of Marigliano in the diocese of Nola, and who has surpassed his sixtieth year. Having recently been invested with the sacred order of the priesthood, he has shown himself to be diligent in performing ecclesiastical duties, especially in preaching the word of God and administering the sacraments of confession to the faithful. He has been co-opted among the Examiners of the Clergy and Pro-Synodal officials of the diocese of Nola, and until now, he has been a Collegiate Canon and curate in his homeland, and now he is honored with the dignity of Primicerius.

The city of Nerit, or Neretum, located in the province of Lycia, in the region of Hydruntina, near the Neapolitan countryside, and built on a plain not far from the seashore, has a circumference of approximately two Roman miles and contains about one thousand homes, inhabited by nearly four-

Translated by churchlatin.ai, a product of Boyne Archives

teen thousand citizens. The Cathedral Church, of an old and solid structure, is dedicated to the Blessed Virgin Mary, assumed into Heaven, requires no significant repairs, and is immediately subject to the Apostolic Holy See. Its Chapter comprises four dignitaries, after the pontifical office:

[*Latin ed. p. 521*]

From the Consistorial records, the first Archidiaconate comprises twenty canons, including a theologian and a penitentiary, eighteen mansionaries, and other priests and clerics devoted to divine service. The care of souls in the Cathedral is exercised by the Canon-Archpriest. Furthermore, there is found within it a parish church which also serves as a chapel, a monastery of three men and one woman, a conservatory, several lay sodalities, a hospital, a mountain of mercy, and a seminary. The extent of the diocese extends to approximately twenty-five leagues and encompasses sixteen locations.

The CATHEDRAL CHURCH OF MAURIANEN is vacant, due to the death of the Most Reverend Franciscus Mariae Vibert, the last Bishop, who had already passed away outside of Rome. The Most Holy [Pope] transferred the Most Reverend and illustrious Man, Mauritius de Mac-Mahon, Duke of Magenta, President of the French Republic, to the aforementioned Church, appointing the Reverend Father Michael Rosset, whose qualities had been approved by the Apostolic See, who in the preceding month of June was appointed Prefect of the Church of Pariensi and Apostolic Administrator of Mauriana.

Mauriana, or the Church of Saint John of Mauriana, is a city in Savoy, located on the Arc River in the valley, and enjoys a healthy climate, being inhabited by several thousand people under temporary French rule. The Cathedral Church of Saint John the Baptist boasts certain features, but requires repairs and serves as a suffragan to the Archbishop of Chamberiensi. Its Chapter numbers ten canons, without a theologian or penitentiary, among whom the Principal Prefect holds the place after the pontifical ceremonies, to whom are added parish vicars and, on Sundays, students from the seminary for divine service. The care of souls in the Cathedral is exercised by the Canon-Archpriest. There is no other parish or collegiate church found in Mauriana, nor a mountain of mercy, but only one monastery of women, a hospital, and two seminaries. The extent of the diocese is quite broad and encompasses seventy thousand inhabitants.

The CATHEDRAL CHURCH OF SAINT DIONYSIUS is vacant, due to the translation of the Reverend Father Victor, John Baptist, Paulinus Delannoy to the Cathedral See of Aturensem: The Most Holy [Pope] appointed the Reverend Father Dominicus Ciernen-

[*Latin ed. p. 522*]

From the Consistorial Acts of Soulé, born of legitimate, Catholic, and honest parents in the place commonly called Capbreton, in the diocese

Translated by churchlatin.ai, a product of Boyne Archives

of Ature, having surpassed his forty-ninth year. Having recently received the sacred order of the priesthood, he diligently applied himself to the exercise of ecclesiastical functions. Having been chosen by the Secretariate, first of the late Prelate of Ature, and then of the Episcopal Curia, he was until now a Canon in the Cathedral, and he resigns from the office of Assessor to the Capitular Vicariate. The city of Saint-Denis is located on the island of Réunion, commonly called Bourbon, one of the colonies belonging to France, and situated on the coast of the Indian Ocean, to the south of Africa, in a plain, distinguished by the pleasantness and beauty of its location, and inhabited by approximately twenty thousand people, almost all of whom profess the Catholic religion, under temporary French rule. The Cathedral Church is sufficiently large, worthy, and built in the Roman style, and it bears the title of Saint-Denis, the city's patron, and requires no repairs, and it is suffragan to the Archbishop of Bordeaux. The Chapter is not yet established, and the Bishop, by Apostolic indult, appoints certain honorary Canons, and the service of the Church is completed by General Vicars and several priests. The care of souls in the Cathedral itself is exercised by the Parish Priest, assisted by two Vicars. There are also four other parish churches in the city of Saint-Denis, equipped with a baptismal font, three for men, and four for women, as well as two religious houses, a double lay sodality, a triple hospital, and a seminary; but a house of piety is desired. The extent of the diocese encompasses the entire island of Réunion, which extends in a circle of approximately sixty leagues, and contains many places.

THE CATHEDRAL CHURCH OF GOYAS. Vacant, due to the translation of the Reverend Father Dom Joakim Gonçalves de Azevedo to the Metropolitan See of Salvador in Brazil: The Most Holy [Pope] promoted to the aforementioned Church the Reverend Anthony Maria Correa de Sa' and Benevides, born of legitimate, Catholic, and honest parents in the city commonly called Campos dos Goytacaps, in the diocese of Fluminis Ianuarii, and having surpassed his fortieth year. Having recently been initiated into the sacred order of the priesthood, he diligently labored in the performance of ecclesiastical functions. At the Imperial College of Saint Peter, he served as Vice-Rector, and naturally...

[*Latin ed. p. 523*]

Having fulfilled the duties of his professorship, as evidenced by the Consistorial acts 523, he also demonstrated a lack of zeal in hearing confessions and in guiding souls on the path of the Lord. The city of Goyás, and its province of the same name, located in the interior of Brazil, is situated in a healthy plain under a favorable sky, and is inhabited by over five thousand Catholic inhabitants, under the temporal dominion of the aforementioned Most Serene Emperor. The Cathedral Church, sufficiently spacious and fitting, and recently restored, bears the glorious title of Saint Anne, requires

Translated by churchlatin.ai, a product of Boyne Archives

no repairs, and serves as a suffragan to the Archbishop of Saint Salvador in Brazil. Its Chapter, which, according to the Apostolic Letters "Sollicita catholici gregis cura" issued on the Kalends of July, 1826, ought to include two dignities, of which the most important is the Archdeaconate, and ten Canonicals with stipends, is not yet established, and only three honorary Canons currently serve there in divine offices. The care of the Cathedral parish is exercised by a parish priest. In Goyás, within the city, there is a parish church with a baptismal font, but no monastery, nor a house of piety, but only a hospital, some lay sodalities, and a recently established seminary and college. The extent of the diocese is quite broad, and encompasses several parishes. Then, according to custom, the Most Holy Father opened his mouth to the Most Eminent and Reverend Cardinal Simeon; and he presented him with the ring of the Cardinalate, and, absolving him from the bond of the Archbishopric of Chalcedon in part. inf., he conferred upon him the presbyteral title of Saint Peter ad Vincula. Finally, a request was made for the pallium for the Metropolitan Churches of Saint Salvador in Brazil, and Augsburg.

[*Latin ed. p. 524*]

From the Acts of the Congregation of the Council, concerning theological matters. August 5th and September 3rd, 1876. Summary of the case. I. B., a Canon Theologian of the Cathedral, having presented a petition to the Holy See, explained as follows: He holds the position of Professor of Dogmatic Theology in the Diocesan Seminary, and has on several occasions excused himself from explaining the Holy Scriptures, both because of the many duties he must fulfill in his ecclesiastical ministry, and because he has availed himself of the faculty granted to professors by the Holy Canons. However, being unaware of the limits and regulations pertaining to the use of such a faculty, and for the sake of his own conscience, he seeks a solution from the Holy See regarding the following questions.

1. Whether it is necessary for him to teach Dogmatic Theology gratuitously in order to be excused from the obligation of explaining the Holy Scriptures.

2. Whether, in the event of a positive response, the obligation of teaching gratuitously extends to all lectures of the academic year, or only to the number of lectures that equals the total number of Holy Scripture lectures that the Canon Theologian is required to give.

3. Whether, on the days in which he delivers lectures in place of the scriptural lectures, he is to be dispensed from attending the choir for the entire day, or only during the hours that correspond to the school schedule.

Having received the petition from I. B. from the Congregation of the Council, the following response was given: To the Bishop, for his information and decision, it is to be reported whether the aforementioned person receives any stipend from the Seminary, and whether the Capitular Con-

Translated by churchlatin.ai, a product of Boyne Archives

stitutions, or Synodal decrees, contain anything regarding the questions proposed.

[*Latin ed. p. 525*]

Theological Benefice, number 525. The Bishop responded: "Regarding the matter of the ecclesiastical benefice and the theological stipend granted to the Theologian last year, we report that the stipend assigned to the master of Theology, Jude, does not exceed the sum of 166 florins annually. Nothing is found in the Capitular Constitutions, nor in the Diocesan statutes, concerning this matter. As for the obligation of the choir, we believe that he is exempt from it during the hours spent in school, since he has a stipend, albeit a small one. However, if we wish to require him to teach gratuitously, then it seems necessary not only to require him to give as many theological lectures as there are scriptural lectures, so that the young men may not be neglected, but also to complete a true scholastic course, and in this case, we will exempt him from the service of the choir entirely on each day when school is not in session, since, when he does not have a stipend, the Theological Benefice serves in its place, and the days of theological instruction are equivalent to the days of scriptural instruction, on which he is not required to be present at the choir."

Synopsis of the discussion. No one has ever doubted that the Roman Pontiffs have pursued the knowledge of the Holy Scriptures with the utmost zeal. For Alexander III, in the Third Lateran Council, ordered that a benefice be established in every cathedral church to educate poor clerics in the sacred arts and disciplines. Innocent III, in the Fourth Lateran Council, prudently decreed that in every metropolitan church, a theologian be appointed to explain the Holy Scripture, with the revenues of a single benefice assigned to him, as stated in Text, Chapter. And Cardinal Peter, in reference to Constitution 2 of Innocent VI, number 8, states that such a law of a general council was arrogated by the Council of Basel (among many others that it arrogated to itself with undue authority!) to the cathedral churches.

[*Latin ed. p. 526*]

526 From the Sacred Council, as much as pertains to this matter, extended in Session 31, Chapter 3, with these words: "Since it has been decreed by the statutes of the General Council that each Metropolitan Church ought to have one theologian, this Holy Synod ordains that this arrangement be extended to Cathedral Churches." The Most Holy Tridentine Council, in Chapter 1 of Session 5 concerning reforms, established the following regarding this matter: "But in Metropolitan or Cathedral Churches, if the city is notable or the population is large, and also in collegiate churches existing in some notable town, even if not belonging to any diocese, if there is a numerous clergy there, and no provision or stipend of this kind is

Translated by churchlatin.ai, a product of Boyne Archives

found, it is to be provided in some way, except for the reason of resignation, to the first vacancy, to whom no incompatible office has been assigned, and it is to be understood as perpetually established and assigned for that purpose. And if in these churches there were no provision, or not a sufficient one, the Metropolitan or the Bishop himself, by the assignment of the fruits of some simple benefice, with the same debts and obligations supported, or by the contribution of the benefactors of his city and diocese, or otherwise, as it may be possible to do, shall provide, with the advice of the Chapter, so that the reading of the Holy Scriptures may be held, but in such a way that no other readings, or customs, or anything else instituted in this way, are in any way neglected." In places where a certain provision or stipend for Lecturers of Holy Theology is established: Bishops, Archbishops, Primates, and other local Ordinaries shall compel and oblige those who receive such a provision or stipend to expound and interpret the Holy Scriptures themselves, if they are suitable, or otherwise, through a suitable substitute chosen by the Bishops, Archbishops, Primates, and other local Ordinaries, even by subtracting the fruits.

[*Latin ed. p. 527*]

Theological Chair 527 And shortly thereafter, the same Holy Synod, speaking of monasteries of monks, added: "Also, in monasteries of monks, wherever it can be conveniently done, the reading of Holy Scripture should be held." To these decrees, concerning the establishment of a theological chair with the obligation of expounding Holy Scripture, the Pastoral Constitution of Benedict XIII should be added, in which it is stated: "One-third of the revenues of the theological chair should be distributed by the Bishop and proportionately applied to the individual readings of Holy Scripture." Therefore, from what we have presented, it appears that the duty of the theologian pertains to the exposition of Holy Scripture, and this was the ultimate purpose of the Tridentine arrangement, so that the treasure of the heavenly books would not be neglected. Therefore, Geraldus, *Expositio Iuris Pontificii*, part 1, book 4, Decretal § 4, states: "Indeed, the duty of the theologian is to expound and interpret Holy Scripture alone." Although many canonists, such as Fagnan, *in cap. Quia nonnullis, de Magistris*, Cardinal Petram's commentary on Constitution 2 of Innocent VI, number 46, Ferraris, *V. Canonicus*, article 9, number 15, § 30, Benedict XIV, *Institut. Eccles.* 57, number 7, the Sacred Congregation of the Council in Fulginata, July 3, 1784, in Hispana, April 5, 1576, and others, hold the opinion that the Canon Theologian fulfills his duty equally well if he reads Holy Scripture or teaches dogmatic or scholastic theology; nevertheless, after the Encyclical of Gregory XVI, a different opinion prevailed. For this Supreme Pontiff, given the opportunity by modern biblical scholars, decreed in the aforementioned Encyclical that the Canon Theologian should give an explanation of Holy Scripture. Therefore, after

Translated by churchlatin.ai, a product of Boyne Archives

this latest law, as often as you refer to § 3 of this Encyclical, which concerns the Canon Theologian, as you will see in the Appendix to this resolution below, on page 529; where it is repeated that the origin and duties pertain to the Canon Theologian.

[*Latin ed. p. 528*]

528 From the Sacred Congregation of the Council, it was inquired whether a Canon Theologian could properly exercise his office by explaining the Sacred Scriptures, or by teaching dogmatic, scholastic, or moral theology. The response was that such a Canon is indeed held to be qualified to explain the Sacred Scriptures. Therefore, it must be said that the Sacred Congregation has deviated from the teaching of Benedict XIV, as can be seen in Derthonen, July 27, 1844, in the Visitation of the Most Holy Lords, regarding question I I I. It was asked whether, and how, assent should be given to requests concerning the alteration of the reading of the Sacred Scriptures in cases of conscience. The response was: "It is not expedient; and the Bishop should ensure the execution of the most recent Encyclical of Our Most Holy Lord." In Casale, on the Feast of Theology, June 26, 1847, regarding question: Whether and how a Theologian ought to obey the commands of the Bishop concerning the readings of the Sacred Scriptures, to be given as a kind of discourse, in this case: the response was: "Negatively, and the biblical reading must be maintained according to the decrees of the Council of Trent, Session 5, chapter 1, and as explained in the Roman Council, of the year 1725, title I, chapter 8." Finally, it seems that a Canon Theologian can be excused from the duty of reading the Sacred Scriptures if he freely chooses to teach Dogmatic Theology; lest he receive a double payment for a single work, which is condemned by the sacred canons as being reminiscent of greed for gain. It also seems to be beyond dispute that the obligation of freely teaching Dogmatic Theology does not extend to a fixed and determined number of biblical readings; for when the aforementioned obligation is fulfilled by biblical readings, it cannot in any way extend to all the readings of theology for an entire year. It also seems that there can be no doubt that a Theologian, on the day that he teaches Dogmatic Theology, is excused from the entire choral service of that day; for if he is excused from the entire choral service on the day that he explains the Sacred Scriptures, why should he not be excused on the day that he teaches theology?

[*Latin ed. p. 529*]

Theological Dissertation 529 states that, when these readings are substituted for biblical readings, the matter should be submitted to the judgment of the ecclesiastical authorities. After this and other matters had been explained, the matter was submitted to the prudence of the Most Reverend Fathers, and they were to decide how to respond to the doubts. Canon

Translated by churchlatin.ai, a product of Boyne Archives

Law I.B. RESOLUTION. The Sacred Congregation of Councils decided on August 5th to respond with "Deferred." However, on September 2nd, 1876, after the matter was again discussed, the following response was given: Canon Law I.B. is to be observed regarding scriptural readings; nevertheless, considering the particular circumstances, it is permissible for him to be excused from the choir on days when the Dogmatic School is not in session. THEREFORE, IT IS UNDERSTOOD: I. The Canon Theologian fulfills his office in no other way than by explaining the Sacred Scriptures. II. As the most learned Giraldi states, according to the Council of Trent, the principal duty of the Canon Theologian is nothing other than to explain and interpret the Sacred Scripture. APPENDIX. Regarding the origin and duties of the Canon Theologian. Since that great treasure of saving doctrine, which the Holy Spirit has generously bestowed upon mankind, is contained in the Sacred Scriptures, therefore the Most Reverend Fathers and ecclesiastical Councils have always, and with every diligent effort, striven to ensure that the clergy and the faithful are imbued with knowledge of these same Sacred Scriptures, so that that heavenly treasure may not be neglected. Therefore, Alexander III, at the Lateran Council III, ordered that a Benefice be established in every cathedral church for the education of poor clerics in sacred literature and disciplines. Innocent III, at the Lateran Council IV, after speaking of the institution to be established in every cathedral church, also... [The text is incomplete here.]

[*Latin ed. p. 530*]

530. Appendix to the causes of the Most Reverend Masters of the Council who gratuitously taught Grammar to the clergy of the same Church, and other scholars: He also commanded that in every Metropolitan Church a Canon Theologian be appointed, who would explain the Holy Scriptures. For he says in Chapter IV concerning Masters: "Because to some, poverty and the desire for study, and opportunity are taken away, it was provided in the Lateran Council by a pious decree, that through each Cathedral Church, a Master who would gratuitously instruct the clergy of that Church, and other poor scholars, should be granted some suitable benefice, so that the needs of the teacher might be relieved, and a way be opened for the students to learn." However, since this is hardly observed in many churches, we reinforce the aforementioned statute, so that not only in every Cathedral Church, but also in others which can afford it, a suitable Master be appointed by the Prelate with the Chapter, or by the majority and more prudent part of the Chapter, who will gratuitously instruct the clergy of those churches in the faculty of Grammar, and others as far as possible. Certainly, the Metropolitan Church should nevertheless have a Theologian, who will teach priests and others in the Holy Scripture, and especially inform them about those matters which pertain to the care of souls. However, each Master shall be assigned by the Chapter the

Translated by churchlatin.ai, a product of Boyne Archives

revenues of one Prebend, and the Theologian by the Metropolitan, not so that he thereby becomes a Canon, but so that he may receive these revenues as long as he perseveres in teaching. If, however, a church in the Metropolis is burdened with two Masters, the Theologian should be provided for according to the prescribed manner, and in the church of its city, or diocese, a Master of Grammar should be appointed if it can afford it. This decree of the General Council of the Lateran was extended by the Council of Basel, which usurped more than its due authority, Session 31, chapter 3, to Cathedral Churches in this manner, namely: "That each holder of such Prebends shall be obliged and must confer a Canonry and Prebend, as soon as the opportunity presents itself, and a Master is found, who has been licensed or has obtained a Bachelor's degree in Theology, who has studied for ten years in a privileged University, and who is willing to undertake the duties of residence, reading, and preaching, and who must read at least twice, or once at least, during each week, unless a legitimate impediment prevents him; and if he fails in such reading, he may be punished by the Chapter at its discretion by the subtraction of the entire week's distribution. And if he abandons his residence, another shall be provided. However, so that he may be freer to devote himself to study, he shall lose nothing from it when he is absent from divine services." That decree was word for word in the Sanction Pragmatica, and also in the Con-

[*Latin ed. p. 531*]

Theological Chair 531, concerning Francis. It was decreed by Pope Leo X, with legitimate authority, in the Fifth Lateran Council in the year 1516, between King Francis of France and Pope Leo X, that a Theological Chair be added to the Cathedrals and Metropolitan Churches of France and Delfmatus, for a Doctor or Licentiate in Theology, so that he might read the Scriptures at least twice a week. However, understanding that these most salutary decrees had not yet everywhere achieved their desired effect, the Council of Trent, in Session V, chapter 1, concerning reform, decreed that "in Metropolitan or Cathedral Churches, if the city is notable or populous, and also in Collegiate Churches existing in some notable town, even if not belonging to any diocese, if there is a numerous clergy, where no Theological Chair or endowment or stipend of this kind is found, a Chair, except in the case of resignation, shall be permanently established and assigned for this purpose, unless another incompatible office has been assigned to it. And in order that in these churches there may not be a lack, or not a sufficient number, of such Chairs, the Metropolitan or Bishop himself, with the advice of the Chapter, shall provide, by assigning the fruits of some simple benefice, while still bearing its customary charges, or by contributions from the benefices of his city and diocese, or otherwise, as it may be possible, so that the reading of the Holy Scriptures may be held; but in such a way that any other readings, whether instituted by custom or by any

Translated by churchlatin.ai, a product of Boyne Archives

other means, are by no means interrupted for this reason. But in churches whose annual revenues are meager, and where the number of clergy and people is so small that the reading of Theology cannot conveniently be held, at least a master shall be chosen by the Bishop with the advice of the Chapter, who will teach poor clerics and other students grammar free of charge, so that they may, with God's help, subsequently be able to devote themselves to the study of the Holy Scriptures; and therefore, the fruits of a grammar master or of some simple benefice, which he receives, shall be assigned to him as long as he continues to teach; provided, however, that the benefice itself is not defrauded of its due by this arrangement; or that he shall be paid a suitable salary from the chapter or episcopal funds; or that the Bishop himself shall devise some other arrangement suitable for his Church and diocese, so that this pious and useful purpose may be achieved. Furthermore, a Chair that is first vacant due to resignation cannot be assigned for the use of a Theological Chair; however, this prohibition must be understood to apply only to resignations that are offered for a specific purpose. And since this resignation is conditional, and is made when someone resigns a benefice with the condition that it be conferred upon a certain person and no other, it is called a resignation in favor of a third party.

[*Latin ed. p. 532*]

532 Appendix to the Causes of the Holy Council: "And, whatever the reason, the reading of the Holy Scriptures must not be neglected. Also, in monasteries of monks, where it can be conveniently done, the reading of the Holy Scriptures should also be held." From these words, it is clearly evident that the intention of the Council of Trent was not only to establish a theologian in cathedrals and metropolitan churches, according to the decrees of preceding councils, but also in important collegiate churches, where there is a large number of clergy, so that a theologian may be appointed to read the Holy Scriptures; and that this position, except for the reason of resignation, should be considered perpetually established and assigned, provided that no other incompatible duty is assigned to the person. All of this must be added to the Constitution of Benedict XIII, which begins with "Pastoral Office." In this, the Supreme Pontiff warned that it is the proper duty of his pastoral office to ensure that all the decrees of the Holy Council of Trent are observed inviolably. Among these decrees, he said that one of the most important is that which provided for the establishment of a position for the reading of the Holy Scriptures, not only in cathedrals but also in important collegiate churches in towns. He then continued: "However, it has been observed that this provident arrangement of the Holy Council has, in some cathedrals, as we perceive with great sadness, been neglected and has not been carried out with due diligence. Therefore, in order for a vacant position to be formally established as a theological position, it is necessary

Translated by churchlatin.ai, a product of Boyne Archives

for the Bishop to actually appoint and assign the vacant position to this office, declaring it to be theological. Otherwise, as canonists commonly teach, such a position will remain free, and the Holy Council Congregation itself, as reported by Fagnan, in chapter IV, De Magistris, states: 'The Holy Council Congregation considered that, with the approval of the Most Holy [Father], the actual appointment is required for the erection of a theological position; and therefore, if the actual appointment has not been made in the provision for the position, the provision cannot be compelled to fulfill the duty of reading.'" It is known that this constitution applies to Italy and the surrounding islands. Other collegiate churches are called simple, while others are called important, or decorated with the title of importance. According to the Glossary, chapter Statutum, de Bescr., the following conditions must be present for a collegiate church to be considered important: either because it is commonly considered and regarded as such; or because it is accompanied by many circumstances that suggest that it is important: for example, if it is a mother church, if it is noble because of the fame of its location, if it is ancient, if it has precedence over others, if it has an impressive structure, if it has been restored with a large number of serving ministers. It is not necessary for a theological position to be established in a collegiate church that it itself be important, as some have mistakenly thought, but it is sufficient that the town in which the collegiate church is located, even if it is simple, is large, prominent, and has a numerous clergy.

[*Latin ed. p. 533*]

Regarding the Theological Chair (Praebenda): We, intending to diligently urge the execution of this matter for the sake of the watchful care of the Holy See, and with certain knowledge and mature deliberation concerning the fullness of the Apostolic power, by this Our Constitution, which shall endure perpetually, We decree and establish that in all Cathedrals of Italy and the adjacent islands, in which a Theological Chair has not yet been established, the said Chair shall be considered vacant from the first vacancy after the publication of this present Constitution, and that the collation and provision thereof shall pertain to Us and the Apostolic See, or to the Ordinary of that place, by law, and without any other declaration, the Theological Chair being considered established.

Furthermore, the Supreme Pontiff has decreed that Theological Chairs must always be conferred upon a Doctor in Sacred Theology, or upon one who, within a year of obtaining the Doctorate, receives a degree in the same faculty; and otherwise, upon the most suitable candidate, having been approved in a formal examination by Examiners.

"However, if a Bishop should presume to confer the vacant Theological Chair contrary to the form prescribed in the present Constitution, or should, in other circumstances, neglect to observe the same form, then such collation and provision shall, by law, be null and void, and shall have no

Translated by churchlatin.ai, a product of Boyne Archives

validity or effect whatsoever, and the disposition of the said Theological Chair shall immediately revert to the Holy See and the Roman Pontiff for the time being, to whom a Doctor in Sacred Theology shall be conferred."

With these things noted concerning the institution of a Canon of Theology, We wish to express something regarding the duties of the Canon, or concerning the specific office of the Theologian: on which matters various opinions have been held at different times. Indeed, there have been many Doctors who, adhering to the decree of the Council of Trent and subsequent Pontifical constitutions, have considered that a Canon of Theology can fulfill his office if he reads Holy Scripture, or Theology, whether Dogmatic or Scholastic. Moreover, Cardinal De Luca, in his Annotations to the Council of Trent, Discourse II, n. 5, considered that Scholastic Theology should be taught in places where heretics are present, but in places where the Catholic faith is peacefully held, Moral Theology may also be read, as it is more useful. And Cardinal Petra, in his Commentary on the Constitution of Innocent VI, n. 46, says: "Indeed, it may happen, due to circumstances of time or place, that a Theological Chair cannot be canonically established; as, for example, in France, where Canons receive a certain stipend in money from the Government for the establishment of a Theological Chair." Then the Sacred Congregation often urges Bishops, until the decree of the Council of Trent can be fulfilled, to assign to some Canon, while conferring the canonry upon him, the duty of performing the office of Theologian.

[*Latin ed. p. 534*]

534. As an appendix to the causes presented to the Sacred Congregation of the Council, it can be objected that the exposition of moral theology, which deals with matters of conscience, may be deemed unsuitable; especially in our regions of Italy, and in other places where there is no need to deal with heretics and schismatics concerning dogmas of the faith and theological questions, where, therefore, a more useful and more appropriate exposition of moral theology is required for the formation of Christian morals and for the administration of the sacraments, where the Catholic Faith is peacefully professed. This was stated by Cardinal De Luca to the Council of Trent, in session 2, paragraph 5. And it appears that this was approved, as follows: "It is possible to confer the position of Theologian upon one of the suitable students of the Illyrian College, even if he is to explain only matters of conscience," (lib. 8, Dec., page 116). And since, as I will say below, the matter is referred to the Bishop, this Bishop, according to his prudence, if he recognizes capable listeners, especially laymen, whom the Sacred Congregation also includes under the term "people," ought to demand that the exposition be given; but if this is not the case, and the people are not present, nor is there a sufficiently learned clergy, it is better to instruct them in moral theology more suited to them. Pope Benedict XIV, in the Synod of his Diocese, book 13, chapter IX, paragraph 17,

Translated by churchlatin.ai, a product of Boyne Archives

states: "According to the present method of ecclesiastical studies, it cannot be denied that these are divided into various classes; one class consists of those who interpret the sacred Scriptures; another consists of those who expound theological disciplines, whether scholastically or dogmatically; a third consists of moralists, who discuss what is to be done and what is to be avoided in practice; and a fourth consists of those who profess the sacred canons. This distinction of the various classes has given some Bishops the opportunity to represent to the Holy See, in their reports, that for the benefit and instruction of the clergy, it would be more expedient for a Canon Theologian to teach moral theology in their cathedrals and collegiate churches, than to expound the Divine Scriptures; especially for the reason that the clergy can easily understand the explanation of the sacred Scriptures from preachers; but moral theology, they can scarcely learn from anyone other than a Canon Theologian." On this matter also, an act was performed with us, from the secret archives of the Congregation of the Council, and a certain discourse of ours, which was presented in that Congregation, which was held on June 5, in the year 1723, is read in the "Treasury of Resolutions," volume 2, page 329. In it, we approved the decree of the Council of Trent, whether its words are considered, or whether account is taken of the practice and customs of subsequent times, which equally includes the exposition of the Sacred Scriptures and theology.

[*Latin ed. p. 535*]

Theological Chair 535: "The scholastic discipline, and not merely the Canon Theologian, fulfills his office if he explains and clarifies the books of Holy Scripture, just as much as if he instructs the clergy in scholastic theology, provided that this theology is of the kind that Melchior Canus recommends for being taught and learned in his book 8 on Theological Locutions, chapter 1. Indeed, we ourselves have noted in our Institution 42, page 220 and following, that, concerning questions of grave importance and utility, these should be treated with the testimonies of Divine Scripture, the decrees of Councils, and the authority of the Fathers. Furthermore, we have noted that it has been commendably done by some Bishops to have that theology taught through a Canon Theologian, which pertains to the guidance of consciences and morals; but it has not been definitively decided, whether, according to the mind of the Council, a Canon Theologian sufficiently fulfills his office if he dedicates himself to explaining Canon Law. Indeed, professors of Canon Law have sometimes maintained that they can obtain the Theological Chair, even if they have not been awarded a doctorate in Sacred Theology, considering that they have obtained the doctorate in Canon Law. However, we cannot deny the close bond that links moral theology and the science of Canon Law, as we have shown in the aforementioned passage; nevertheless, since today these disciplines are treated as if they were distinct from each other, and separate lectures are

Translated by churchlatin.ai, a product of Boyne Archives

given, and the Council has decreed that a Canon Theologian be chosen who is a Doctor in Sacred Theology; it is fitting that the Sacred Congregation has responded that, in general, it is not sufficient to have obtained the degree of Doctor in Canon Law in order to obtain the Theological Chair; however, in particular cases, it may seem appropriate to confer the same Theological Chair upon some Sacred Canon, Master, who can also combine with the reading of Canon Law, those things that pertain to moral theology; which, indeed, has been and is still performed with great merit, as is evident from their learned works printed in books. See the response of the same Congregation to a question proposed on June 5, 1723, in the Treasury of Resolutions, volume 2, page 321."

Therefore, it can be gathered from the aforementioned that, in various circumstances and times, according to the opinion of Doctors, and also according to some resolutions of the Sacred Congregation, a Theologian fulfills his office either if he explains the Holy Scriptures, or if he teaches scholastic theology, or even if he teaches theology that pertains to morals. However, with regard to moral lectures, it is necessary to observe what the Sacred Congregation has decreed.

[*Latin ed. p. 536*]

536. In addition to the causes presented to the Sacred Congregation, there have been instances in which, due to a particular circumstance, a Canon of Theology was permitted to fulfill his duties by teaching moral theology. However, in the treasury of resolutions, there are numerous examples in which the theologian was denied the ability to fulfill his office through lectures on moral theology; thus, it can be asserted that, although some Doctors may have believed that a theologian could also teach the theological science that pertains to morals, the general practice of the Sacred Congregation was that lectures on moral theology were not suitable in accordance with the decree of Chapter 1 of Session 5 of the Council of Trent, promulgated by the Fathers. Besides the opinion of the Doctors, there are countless resolutions of the Sacred Congregation in which it has been declared that a Canon of Theology can freely explain the sacred Scriptures and teach dogmatic theology. In Hispalensi, on April 5, 1576, the Sacred Congregation responded: "It is permissible to fulfill the decree of the Council of Trent, Session 5, Chapter 1, by reading either the Holy Scriptures or scholastic theology. And as We have indicated, Benedict XIV has repeatedly affirmed and confirmed that if a theologian undertakes either of these, he will equally fulfill his office." Meanwhile, Gregory XVI, in his Encyclical *Inter praecipuas machinationes*, dated 1842, states in paragraph 3: "For this purpose, these same individuals ceaselessly slander the Holy Church and this See of Peter, as if for many centuries they have prevented the faithful people from knowing the sacred Scriptures; whereas, in fact, there are abundant and most evident

Translated by churchlatin.ai, a product of Boyne Archives

documents showing the singular effort with which the Supreme Pontiffs, and other Catholic prelates under their guidance, have used in recent times to instruct the Catholic people more deeply in the words and traditions written by God. In the first place, belong the decrees of the Council of Trent, by which, not only were Bishops commanded to take care that the Holy Scriptures, namely the divine law, should be more frequently proclaimed throughout the diocese, but also, in addition to the institution of the Lateran Council, provision was made that in each church, or cathedral, or collegiate church of cities and towns, there should be a theological lecturer, who would impart instruction to all suitable persons for the exposition and interpretation of the Holy Scriptures. Concerning this theological lecture, in order to establish it in accordance with the norm of that Tridentine sanction, and concerning the lectures to be given by a Canon of Theology to the clergy, and even to the people publicly, action was taken in many provincial synods, as well as in the Council of Rome in the year 1725, in which Benedict XIII, our predecessor, and the sacred prelates of the Roman province, but..."

[*Latin ed. p. 537*]

Theological Provision 537: "Furthermore, He had summoned numerous individuals, including Archbishops, Bishops, and other ecclesiastical officials from various places, all of whom were subject to this Holy See in every way. Moreover, the Supreme Pontiff established certain provisions in the Apostolic Briefs, which He granted specifically for Italy and the adjacent islands. Finally, to you, venerable brothers, who are accustomed to reporting to the Apostolic See regarding the condition of sacred matters in each diocese, it has been made clear, through responses given by Our Congregation of the Council to your predecessors, or to yourselves, that the Holy See is accustomed to congratulate Bishops if they have theological professors who are diligently fulfilling their duties in public lectures on sacred literature, and that it never ceases to encourage and assist in their pastoral concerns, if, in any place, matters have not yet progressed according to their judgment." To conclude this appendix, something must be added regarding the opinion of the Sacred Congregation concerning the role of the Canon Theologian after the aforementioned Encyclical of Gregory XVI. This opinion of the same Sacred Congregation, drawn from various resolutions subsequent to that time, appears to be that the Canon Theologian should fulfill the duty of explaining the Sacred Scriptures, which was assigned to him from the time of the Council of Trent. We will present some of these resolutions to demonstrate that this is what has been asserted. Thus, in the Visitations of the Sacred Congregations, July 27, 1844; in which, regarding the third question: "Whether and how should assent be given to requests concerning the modification of the reading of the Sacred Scriptures for the explanation of matters of conscience, in this case?" the response was: "It

Translated by churchlatin.ai, a product of Boyne Archives

is not advisable, and the Bishop should ensure the execution of the most recent Encyclical of Our Most Holy Lord." In Casale, during the Theological Provision held on June 26, 1847, regarding the question: "Whether and how should a Theologian obey the commands of the Bishop concerning readings of the Sacred Scriptures, as if they were a public gathering?" taking into particular consideration the mystical and moral sense, in this case. The Sacred Congregation responded: "Negatively, and the biblical reading should be maintained according to the decrees of the Council of Trent, Session 5, chapter 1, and as explained in the Roman Council, year 1725, title 1, chapter 8." And also in a summary of prayers from Città di Castello, on September 2, 1876, regarding the Theological Provision, the Sacred Congregation considered it appropriate to respond: "The Canon Theologian is bound to the scriptural readings." These resolutions, we must admit, seem more appropriate for the times in which we live; since many perverse men strive with all their might to pervert the Sacred Scriptures, in order to deceive men." You will see this question addressed on page 524 and following.

[*Latin ed. p. 538*]

538 From the Sacred Congregation, and therefore with the utmost care, it is to be ensured that the Sacred Scriptures are properly explained, contributing to the benefit of this evil, which is so advantageous to the Catholic Republic. Regarding the number of readings to be delivered by the Catechist, the common law has not provided anything definitive: for neither the Lateran Council, nor Trent, nor Pope Benedict XIII in his Pastoral Constitution, have spoken of this. But the Council of Rome in the year 1725 desired that at least forty readings be held per year; and this number cannot be reduced without a special dispensation, as the Sacred Congregation decreed in the Brief "Balneorum," to the Most Holy Lords, Cardinals, on May 9, 1840. However, the prudent judgment of the Ordinaries remains, as the same Sacred Congregation decreed in Ripatransone on January 12, 1692, to determine the time and number of readings to be held by the Catechist. In order that a certain and determined penalty may be imposed on the negligent Catechist, Pope Benedict XIII, in the Constitution, the beginning of which is "Pastoralis officii," n. 4, decreed: "We wish, we decree, and we command that one-third of the revenues of said theological position be distributed by the Bishop, and proportionately applied to each reading of the Sacred Scriptures, which the Catechist shall hold, on the prescribed days and hours throughout the year; so that if the Catechist holds all the readings, he shall receive the assigned distributions in full, without any diminution whatsoever; but if he fails in any, or in several readings, he shall lose the distributions corresponding to the readings neglected, which shall be ceded to the benefit of the sacristan of the church, and paid to him. In the case of more serious contumacy of the Catechist, it is permissible for

Translated by churchlatin.ai, a product of Boyne Archives

the Bishop to appoint another theologian, a secular priest, or a religious, who, by regularly taking the place of the aforementioned Catechist, shall enjoy the aforementioned distributions."

MARRIAGES. December 20, 1873; July 8, and September 2, 1876. Summary of the case. Vincent N., of the Diocese of S., aged 24, was captivated by love for a girl, A., of the same Diocese; who at that time (in the year 1868) was about twelve years old. He declared his affection to the girl through intermediaries and through letters, and she offered him little resistance, responding with love in kind: and they were granted amorous conversations through the windows, unknown to her parents. However, to them...

[*Latin ed. p. 539*]

The fame of this love affair had reached such a point that the lovers began to contemplate eloping; for the young woman had already been captivated by the youth's flattery and moved by his deceitful words. What failed on the first attempt, they were able to accomplish on the second; and on the 20th of March, 1868, at the fifth hour of the evening, the young woman fled from the sight of her parents, and, accompanied by a certain woman, arrived at the agreed-upon place, where, with a young man and his servant, she boarded a carriage bound for the City of St. There, after a brief stay, they proceeded to the house of the Vicariate Capitular, accompanied by two individuals. Scarcely had they arrived in its presence when the young man approached the young woman and declared: "This is my wife," and the young woman, with a submissive voice, replied: "This is my husband." Upon this, they returned to the man's home, accompanied by witnesses to the marriage and the man's relatives. When the young woman's father learned of this, he invoked the authority of the law, with the intention that his daughter might even be forcibly taken away by the agents of Vincent. In truth, while they were engaged in a lavish feast, it happened that the young woman was returned to her father's home, and the young man, supported by a soldier, was thrown into prison. When the course of action taken by the judicial authorities in this matter did not please the young woman's parents, they presented a supplication to the Most Holy Prince, requesting the annulment of the marriage, or, if not, a dispensation from the consummation of the marriage. Then, the young woman's parents received a response, instructing them to exercise their rights before their own Ordinary, according to Benedict XIV, with regard to the asserted nullity of the marriage. However, since the Vicar alleged his incompetence to judge the case and to absolve the procedural matters, because the marriage had been celebrated before him, and therefore it must be examined, the Sacred Congregation entrusted the care of the proceedings to Bishop F. The young

Translated by churchlatin.ai, a product of Boyne Archives

man did not participate in the proceedings; therefore, the young woman...

[*Latin ed. p. 540*]

540. The matter was brought before the Sacred Congregation for examination; and when asked what she had responded to the words spoken by Juvene before the Vicarius Capitularis – "this is my wife" – she stated that she had added, in a subdued voice, and blushing, "this is my husband." Again questioned as to what she had understood by those words, and whether she had, at that moment, intended to take Vincent as her husband, she replied that she had been unaware of the ceremony and its value, and that she had only said what Juvene had suggested to her, before they had entered the Vicarius Capitularis's house. She stated that, before that act was completed, she had had the will and desire to become the wife of that man; but that, while standing before the Vicarius Capitularis, she had uttered those words without knowing whether it was in this solemn act that marriage was to be celebrated, because she was certain that marriage should be celebrated in the Church. After these questions, she was asked what had happened afterwards; to which she replied that she had left the Vicarius Capitularis's house with Vincent and two witnesses, and with two other women, and had gone to Juvene's house, where a table had been prepared. She stated that they had begun to eat, and that her uncle had arrived, and that she had been seized by the hand and taken before a civil official, who wished to be certain of all the facts; and that she had then been returned to her home. Finally, she was asked whether she had spent any time alone with Vincent, and she replied negatively. After the girl had been examined, her parents, her maid, and the Vicarius Capitularis were questioned, and they gave the same account of the matter as had already been stated. The Vicarius Capitularis, however, was asked whether he had heard any words, or seen any gesture, by which the girl had approved of the words spoken by Juvene; and he replied that he had seen or heard nothing, to his great surprise, given the circumstances of the case. He added, however, that, from the circumstances he knew, it did not seem appropriate for the girl to have been alone with Juvene. The other witnesses were questioned about the facts.

[*Latin ed. p. 541*]

In the matter of Matrimony 541, almost all parties presented their arguments; they agreed primarily on the fact that the consummation of the marriage could not have taken place. Since the young man persisted in his defiance, the defender of the bond was summoned, and he appeared, and the doubts presented in the pleadings were examined. The defender of the girl, and the accuser of the bond, presented their arguments, a synopsis of which is given here. Synopsis of the arguments. DEFENSE OF THE GIRL. The advocate began by stating that the marriage in question ought to be

Translated by churchlatin.ai, a product of Boyne Archives

annulled, or dispensed from. He argued that the marriage was invalid for three reasons: 1st, because of the intervention of rape and seduction; 2nd, because the girl asserted that the actions performed before the Vicar did not constitute a marriage; 3rd, because the Vicar did not hear the words of the girl, nor did he see the signs that would indicate her consent to the marriage. Regarding the first reason, he first cited the decree of the Council of Trent, Session 22, chapter 6, concerning reforms, which states that between a kidnapper and the one kidnapped, as long as the latter remains in the power of the kidnapper, no marriage can take place. Having established this, he argued that rape is not only committed by violence, but also by seductions, and that a clandestine disposition takes place both in a rape committed by force, and in a rape committed through seduction. To prove this, he cited the authority of Cardinal De Luca, *De Matrimonio*, discourse 5, paragraph 13; Cosci, *De Separatione Torii*, book 1, chapter 15, paragraph 9; Eotae, page 16, decision 250, paragraph 5. Having established this principle of law, he exerted all his efforts to demonstrate that such a rape had been committed by Vincent. And, he said, this could be proven by all the witnesses, by the ingenuous testimony of the young woman herself, by the very letters that Vincent sent to the girl, and by the confession of the young man himself, who, when writing letters to the Bishop, the ordinary of the process, lamented that he had suffered imprisonment for this deed. Furthermore, the very power of the laity, in order to vindicate the crime from the...

[*Latin ed. p. 542*]

From the decrees of the Sacred Congregation, 542, concerning a girl who was called, it was admitted that the crime existed. Proceeding to the second degree, he said: according to Van Espen, page 2, chapter 4, paragraph 7, marriage is not perfected unless by present consent. But since the girl had appeared before the Vicar Capitular, she did not understand that the marriage was perfected, because she did not know, as is fitting, that the words she uttered could effect a marriage. Therefore, the marriage does not exist because there is no present consent. The speaker objected that the error of the woman did not harm the canonical truth; for if an error renders any contract null, a fortiori it makes marriage invalid, in which absolute present consent is required. For the consent of one who is mistaken is null, as is stated in canon 8 of the Code of Canon Law concerning ignorance of law and fact: "The judgment does not apply to the mistaken person, since the will of the mistaken person is null." This is also confirmed by canon 9 of the same Code; by canon 15 ff. of the Code of Canon Law; by Richer in his work on jurisprudence, book 1, chapter 12, paragraph 711; and by Cosci in his work on separation, book 1, chapter 7, paragraph 2. Furthermore, the speaker responded in three ways to the argument that the girl could not be presumed to be ignorant in a matter concerning the sacrament: 1.º

Translated by churchlatin.ai, a product of Boyne Archives

First, he said that the girl did not spontaneously allege the error, but was driven by the zeal of a defender of the bond, so that the truth of what had happened might come to light. 2.º Secondly, it is not surprising that a girl who has not yet reached the age of fourteen... Therefore, the efficient and perfecting cause of marriage is the mutual consent of the contracting parties, so that just as betrothals are contracted for the future solely by consent, so marriage is perfected by present consent, according to the rule of law. Marriage is made by consent, not by intercourse (canon Nuptias, ff. De regulis iuris). Therefore, the Pope, in chapter 23 of "De Sponsalibus," takes as an unquestionable foundation of his reasoning that the consent of those who are entering into the marriage union alone is sufficient for marriage. As Eugenius IV says in the Decree for the Armenians: "The efficient cause of marriage is regularly the mutual consent expressed by words in the present tense." This is not to be understood as if there were ever another efficient cause of marriage than mutual consent, but that this consent is not always expressed by words: therefore, the term "regularly" refers not to mutual consent, but to consent expressed by words in the present tense.

[*Latin ed. p. 543*]

Marriage 543: It was argued that marriage could not be contracted unless the rites of the Church were observed. 3. Furthermore, it was maintained that this was more readily admitted in the case of a woman, because the laws of the civil law do not condemn women, as that very principle is current among all: "It is permitted to disregard the rights of women." But this argument was even stronger, because it concerned a woman of a young age. To this, the defender added that the laws concerning minors state in *leges* 4, ff., concerning ignorance of the law and of fact, *leges* 11, Code, ibid., Title. Therefore, the defender argued, since the girl, in the matter at hand, was openly mistaken before the Vicar, therefore there was no present consent, and the marriage must be declared null and void. Proceeding to the third point, the defender asserted that there was no marriage even because the Vicar Capitular neither heard the words of the girl, nor observed the signs that would indicate a necessary consent. This, he demonstrated, is a principle of law, as it is taught, that from the Council of Trent, the presence of a parish priest and witnesses is required for the contracting of marriage, morally and physically; so that they may understand what is being done; and physical and material presence is not sufficient: Sánchez de matrim, book 3, section 39; Van Espen, *ius Eccl Univers*, part 2, Title 12, no. 25; Cosci de separation, book 1, chapter 14, no. 97 and following; Grutierez de matrim, chapter 59, no. 8 and following. However, it is clear from the same deposition that the presence of the Vicar was not moral and physical, but merely physical and material; therefore, even on this point, the marriage suffers from the defect of nullity. It would not help to say that the Vicar did not see, nor hear, because of a disturbance of the mind,

Translated by churchlatin.ai, a product of Boyne Archives

and not through negligence: for whatever the cause, it is certain that he could not provide testimony regarding the consent given, and therefore the existence of the marriage cannot be proven.

[*Latin ed. p. 544*]

544 From the Sacred Congregation concerning the separated, book 1, chapter 14, paragraph 15, and from the Holy Roman Rota in Urbisvetana concerning marriage, July 5, 1861, before Sbarretti, § 2 and following. Whoever should say that the testimony of the parish priest is less necessary to prove the existence of a marriage, unless it be out of temerity or audacity, would certainly incur blame. Concerning this matter, Benedict XIV, in the Synodical Decrees of the Diocese, book 13, chapter 3, paragraph 6, says: "The parish priest is present at the marriage as a witness authorized by the Church. Therefore, the Council of Trent wished for the presence of the parish priest so that he might establish the greatest foundation for its validity. The parish priest, however, cannot act as a witness of such authority in the Church, unless he sees the contracting parties, or hears their words, or perceives signs, and understands what signifies the mutual consent of both parties. Therefore," says the advocate, "from these three grounds, there is no nullity in such a marriage. If anyone should persist in proclaiming the nullity of this marriage, let him be reminded of the matter concerning clandestine marriage: hence, a presumption arises for its invalidity, and in case of doubt, judgment should be rendered in favor of nullity (Ursaya, Disputations Ecclesiastical, volume 2, disputation 1, § 9, paragraph 19; Tamburin, On the Sacraments, book 8, title on marriage, treatise 6, chapter 2, § 2, paragraph 15; Cosci on the separated, book 3, chapter 4, paragraphs 29 and following). From here, the advocate proceeded to the second part of the defense, namely, the dispensation for the marriage; for which, he said, two things are required, namely, proof that the marriage was not consummated, and a just cause. Regarding the first requirement, he stated that it is certain that the present marriage was only valid and not consummated. And this has been confirmed by the testimony of all the witnesses, from which it is clear that the girl remained only with the young man and never lived with him after the marriage. Furthermore, there is also a just cause for dissolving the marriage, arising from the aversion of the minds of the contracting parties, and from the hatred that arose between the families. For the girl, having been returned to her parents, and having returned to herself,..."

[*Latin ed. p. 545*]

The marriage [being considered] horrified at such a deed, and the idea of returning to the power of Vincent deterred her. Moreover, the hatred between the two families had grown so intense that the young woman and her parents, having conspired, refused to submit to any examination. Furthermore, the speaker stated, that, apart from the hatred and anger

Translated by churchlatin.ai, a product of Boyne Archives

which had divided the hearts, there was absolutely no hope of reconciliation; therefore, a dispensation, not only legitimate, but also necessary and unalterable, was required, according to the decree of Cosmas concerning separations, chapter 16, paragraph 256. And since it was established that the marriage had only been validly contracted and not consummated, and that there were grounds for a dispensation, the speaker concluded that the dispensation should be granted.

ARGUMENTS OF THE DEFENDER OF THE VALID MARRIAGE.

The defender of the valid marriage attempted to demonstrate that the petition of the girl's parents should not be admitted, firstly, because, according to canon law, the spouses themselves must represent the actor in the case; and secondly, because the proceedings necessary to establish and complete the judicial order were lacking in several respects, rendering them null. Furthermore, he declared that the same petition should be rejected, because he considered the marriage to have been valid; namely, because it had been celebrated freely and spontaneously, both by the man and the woman. And this, he said, was evident from the fact that, over a long period of time, they had indulged in love, without ever transgressing the bounds of propriety, and without any coercion; and that the man and the woman had had nothing else in view than to enter into a permanent marriage. In the very act of contracting the marriage, the girl herself urged that the act be performed with the utmost care. Finally, the girl had so freely consented to the marriage that, after being restored to her parents, she vehemently declared her love for the man. From all of these things, the charge of seduction is completely refuted. He stated that it could not be said that the girl had not consented, because she believed that the solemn act of marriage had been completed in the words spoken before the Vicar, volume IX, section VI, page 35.

[*Latin ed. p. 546*]

546 From the Sacred Congregation, it is stated. For, as is established from the testimony of the girl herself, both before and after such an act, she possessed the will to contract marriage; therefore, it asserts, there is no obstacle to the validity of the act, and any error regarding whether this or that act perfects the marriage does not carry with it any impediment to the validity of the act. And a difficulty could only arise if there were doubt as to whether, at the very moment when the act was being performed before the Vicar, the girl's intention persisted. However, this doubt is eliminated by the girl herself, who, upon returning to her paternal home, wept and repeated: "I want my husband, I want my fiancé." Furthermore, it cannot be said that the validity of this marriage is altered because the Vicar Capitular did not hear the girl's words; for he himself, by oath, testified that he did

Translated by churchlatin.ai, a product of Boyne Archives

not hear the same words, because, being disturbed by the young woman's words, he immediately understood that the marriage was being attempted. But, it is said, it does not matter if the words of the contracting parties are heard, provided that the parish priest understands what is being done; for the validity of the marriage is sufficient if the parish priest understands what is being done. And this is demonstrated from Neritonen, from the marriage of May 24, 1738, and from other cases. Finally, the defender of the bond, proceeding to the second part of his defense, that is, to the dispensation, stated that it could not be discussed in this court, firstly because the petition of the sponsor is lacking, and secondly because the procedural documents necessary for this purpose had not been completed. Therefore, he concluded that it could not have been granted in any way; 1.° because certain and conclusive proof of the consummation of the marriage could not be obtained; since all of Vincent's associates refused to submit to examination, and from elsewhere, the mere possibility of consummation is sufficient to reject the dispensation; 2.° because there is no legitimate reason to grant it, since neither the girl harbors hatred for the young man, nor does any word appear in the records indicating hatred from her parents towards the young man's family. Therefore, even from this point, he declared that the girl's request from her parents should be rejected.

[*Latin ed. p. 547*]

Matrimonii 547. Having considered the aforementioned points from both sides, two propositions must be examined. I. Whether the marriage is null in this case, and if so, to what extent. II. Whether permission for the marriage should be sought from the Most Holy [See] for a marriage that is valid but not consummated.

RESOLUTION. The Sacred Congregation, after discussing the matter on December 10, 1873, decided to provide the following response: Further evidence should be gathered and presented according to the instructions given.

PROCEEDINGS IN THE CASE. Following the instructions given, responses were transmitted after a considerable period of time.

DEFENSE OF THE YOUNG WOMAN. When the question was raised again, the Advocate presented all the facts to the faithful, and he was entirely dedicated to proving the nullity of the marriage. 1.° On the basis of the crime of abduction; 2.° On the basis of the moral absence of the parish priest; 3.° On the basis of the lack of consent from the young woman. Furthermore, he argued that the marriage should be dispensed, because it could not be consummated, and because legitimate and just reasons existed to obtain the grace of such a dispensation. All of these points had already been presented in the initial arguments.

ARGUMENTS OF THE DEFENDER OF THE MARRIAGE BOND. The defender of the marriage bond vigorously opposed, demonstrating with

Translated by churchlatin.ai, a product of Boyne Archives

such clarity the validity of the marriage that it is not permissible to doubt it further. Indeed, the woman explicitly stated that she was not at all forced, but that she herself had chosen the day and hour when she would leave her home to go to the wedding. And this was true, so much so that (according to the testimony of the coachman), the woman herself devised and carried out the plan. Furthermore, in a sworn deposition, the witness testified...

[*Latin ed. p. 548*]

From S. C. Concilii 548, it is affirmed that the girl herself, before appearing before the Vicariate Chapter, must have chosen the matrimonial ring; therefore, it remains certain that she already knew that she was truly entering into marriage. The defender added that nothing could have invalidated this, alleging a supposed abduction; since abduction is only committed when the woman is unwillingly, not by seduction, but by physical force, transferred from one place to another. If she consented, the idea of abduction vanishes; and it can only be asserted that force was applied to the parents. Furthermore, it must be remembered that the Council of Trent consulted only regarding the crime of abduction in order to protect the freedom of marriage, and not at all in consideration of the consent of the parents. And Session 21, chapter 1, condemned those who affirmed that marriages contracted without the consent of the parents are invalid. Therefore, the defender concluded regarding the validity of the marriage: the validity of the marriage was clearly established; and it is not permissible to discuss a dispensation for a marriage that is valid and not consummated; unless the lack of consummation is clearly proven, and no legitimate reasons are present. With these newly presented arguments, the same two points were again raised: I. Whether the nullity of the marriage can be established in this case. And to what extent, negatively. II. Whether it is necessary to consult with the Most Holy [See] regarding a dispensation for a marriage that is valid but not consummated in this case.

RESOLUTION. The Sacred Congregational Council, after again discussing the case on July 8, 1876, decided to respond: To the first: This will be addressed in the second. To the second: Affirmative.

PROCEEDING OF THE CAUSE. The advocate for the validity of the marriage obtained the benefit of a new hearing, and therefore, a third hearing was held.

[*Latin ed. p. 549*]

549. Such was the tenor of the marriage. The advocate for the girl added nothing further to what had already been said, and the defender of the marriage repeated what had been said before, with a new allegation. Therefore, the third point was discussed, under the formula of doubt. Whether one should adhere to or depart from the decisions in the first and second points in this case. The Sacred Congregation, under the date of September

Translated by churchlatin.ai, a product of Boyne Archives

2, 1876, responded: In the decisions. From which are gathered: I. From the Council of Trent, it is certain that, as long as the woman remains in the power of the abductor, no marriage can validly take place between the abductor and the abducted. II. However, the abduction which dissolves a marriage must be accomplished by violence, or by open force, namely, by violently seizing the woman, as the cause for entering into marriage; but not by any other means. III. Abduction by subornation or seduction is excluded from canonical jurisprudence; and remains among some theologians, especially in Gallia. IV. The presence of the parish priest in the celebration of marriage must be moral, and not merely physical, so that his testimony may prove the validity of the marriage. V. The consent of the contracting parties for the marriage can be expressed not only by words, but also by signs; so that the marriage is valid even if the parish priest has not heard the words, but has seen signs equivalent to them. VI. Therefore, it must be considered that nothing hindered the validity of the marriage, since the Vicarius Capitularis (who was performing the duties of a parish priest) did not hear the woman's words; while he himself declared that he understood that she was entering into marriage. It is also known that, after the publication of the Apostolic Constitution *Sedis*, the censure of excommunication, which is incurred by the very law, has always been in force, but it has not been reserved to anyone, as the Council of Trent, session 24, chapter 6, *De ref. matr.*, decreed against those who abduct women, and those who give them counsel, help, or favor.

[*Latin ed. p. 550*]

550 From the Sacred Congregation of the Holy Roman and Universal Inquisition – Decrees V and VII. In order to obtain a dispensation regarding marriage, it is necessary to present complete proof of the non-consummation of the marriage; and a just and weighty reason is required, which may suggest such a dispensation. FROM THE SACRED CONGREGATION OF THE HOLY ROMAN AND UNIVERSAL INQUISITION. Thursday, November 25, 1874. In the General Congregation of the Holy Roman and Universal Inquisition, before the Most Eminent and Reverend Cardinals of the Holy Roman Church, as Inquisitors General against heresy, the following doubts, proposed by the Most Reverend Bishop of Nola, were presented:

1. Whether the places in which the confessions of nuns are usually heard should be considered as places destined for hearing confessions, or as true confessionals?

2. Whether the same should be said of places constructed in such a form, in which the confessions of cloistered nuns are usually heard, in which the confessions of women residing in places commonly called "Conservatories" are received?

3. To the extent that they are to be considered as true confessionals,

Translated by churchlatin.ai, a product of Boyne Archives

whether such places should be considered only in relation to nuns, and to other women residing in the aforementioned places, or also in relation to other women from outside?

The same Most Reverend Fathers judged that the following should be answered concerning the three doubts as they are presented: Affirmative.

For the Most Reverend Father I. PELAM, of the Holy Roman and Universal Inquisition.

Noted: James Vagaggini, Substitute.

[*Latin ed. p. 551*]

FROM THE HOLY CONGREGATION OF THE COUNCIL OF PAROCHIAL JURISDICTION. April 1, 1876. Session 23, Chapter 15 concerning Reform. Summary of the case. The Most Reverend Archbishop B. wrote the following to the Holy Congregation: "In the Metropolitan Church of B., the care of souls is habitually and actually entrusted to the Chapter, together with the Archbishop, and through eight Canons, and also through eight hebdomadaries [priests] appointed at the will of the Chapter, who are usually removable. Consequently, it has come to pass that some [people] believe, not only those who actually exercise the care [of souls], but also all and each of the Canons, to be endowed with the faculty of hearing sacramental confessions, without the approval of the Ordinary. Therefore, the undersigned Archbishop humbly requests that the following doubts be declared."

I. Can any Canon, when the care of souls is entrusted to the Chapter, validly and lawfully hear sacramental confessions, without the license of the Ordinary?

II. Are Canons, to whom the care of souls is entrusted, obliged to undergo an examination before the Ordinary in order to be permitted to hear confessions?

III. What is to be done in this case? These questions were submitted to the full Congregation, and, according to the customary decree, were placed on record and presented to the judgment of the Cardinals, with certain arguments added from the Office [of the Congregation], which, on the one hand, supported the approval and examination by the Ordinary for hearing confessions, and, on the other hand, excluded it.

[*Latin ed. p. 552*]

552 From the arguments of the Council of Trent, contrary to canonical law. The reasoning begins with a well-known axiom of ecclesiastical law: namely, in order for any priest to lawfully and validly hear the confessions of the faithful, he must possess not only the immediate power of Holy Orders, but also the power next in order, which is called jurisdiction. This latter power, according to the consensus of Doctors, allows the priest to exercise judicial acts over those subject to him. This jurisdiction,

Translated by churchlatin.ai, a product of Boyne Archives

unless the priest obtains it from some other source, can only be acquired either through a parochial benefice or through the approval of the Ordinary, which usually contains a judgment regarding the priest's suitability to hear confessions. The mind of the Council of Trent on this subject is clear in Session 23, Chapter 15, concerning Reform: there, the Holy Council decrees that no religious, even if a priest, can hear the confessions of laypersons, nor can he be considered suitable for this purpose, unless he possesses either a parochial benefice, or the approval of the Bishops, through examination, if they deem it necessary, or is otherwise judged to be suitable, which approval is granted freely. The reason for this absolute prescription can be found in Sánchez de Matrim, book 3, disputation 20, number 10. There, it is stated: "Because this approval is only requested by the Council of Trent for hearing confessions due to the great prudence, knowledge, and proven virtue that are required in such a minister, since he is both a physician and a judge of souls." Therefore, the absolution given by a priest is not to be considered invalid or null, as declared by the same Holy Council in Session 14, Chapter 7, concerning Reform. There, the Council affirms that the absolution given by a priest must be of no consequence to him to whom it is given, if the priest does not have jurisdiction, either ordinary or delegated, over him. And this is both lawful and just. For the Sacrament, and indeed the act of penance, is an act of judgment: and the nature and reason of judgment are explained...

[*Latin ed. p. 553*]

Concerning parochial rights, it must be understood that a judgment can only be rendered against those subject to jurisdiction, which certainly is not the case for those who lack jurisdiction. The Canons of the Cathedral Church neither possess ordinary nor delegated jurisdiction. They do not possess ordinary jurisdiction, which is communicated by virtue of office, because they do not hold a parochial benefice; nor do they possess delegated jurisdiction, because it is certain that they have neither requested nor obtained approval from the Ordinary. Nor can the argument be admitted that these Canons possess a parochial benefice simply because the Canons renounce it, and are part of the Chapter, within which the care of souls is found. For, except for the eight Canons to whom the exercise of the cure has been entrusted, and who fulfill it with the same hebdomadarius, the other Canons abstain from all administration, and do not in any way involve themselves in the administration of the care of souls; therefore, it is useless for them to invoke the disposition mentioned in chapter 15, session 23, concerning reforms. Moreover, the matter is even more serious, because it is not even the case that the aforementioned disposition of Trent can be beneficial to the Canons to whom the care of souls has been entrusted. For it teaches that Canons, even though they are approved pastors and are exercising the ministry of the parish church, can be subjected to

Translated by churchlatin.ai, a product of Boyne Archives

a new examination by the Bishop, even if new, extrajudicial indications of their unworthiness arise; if, indeed, the pastors have been approved by the Bishop himself, it is permissible for a new Bishop to subject them to a new examination for his own peace of mind. This is expressly stated by Ferraris, in the word "Parochus," article 2, number 21, to number 27; in Horta Decis. Recent, part 19, volume 1, decision 257; in Gonzalez, Garcia, Barbosa, De Luca, Pignatell, volume 1, consultation 133, number 7; and in the decree of the Sacred Congregation of Councils, concerning Pampilona, as related by Pignatelli in the aforementioned place, number 8. If this holds true for pastors who have already been expressly approved by the Bishop in the exercise of their office, then it must be said even more so concerning Canons who exercise the care entrusted to them by the Chapter, that no examination...

[*Latin ed. p. 554*]

554. From the Sacred Congregation, or those otherwise approved, for the fulfillment of the pastoral office. And thus, it was truly defined by the Sacred Congregation of Rites, in the instruction *De Curatione Animarum*, July 19, 1732, in which the following question was posed: Whether a chaplain or vicar appointed to the exercise of the care of souls, whether from or outside the chapter, must be approved by the Bishop for that same care? The response was: Affirmative. But it must be especially kept in mind that the canons of the cathedral are truly not to be considered presbyters, but rather simple laborers called to cultivate the vineyard of the Lord, or simple administrators of the care of souls. For in the case of a cathedral church, the care of souls and all the rights of the parish are never separated from the chapter; and those canons to whom the exercise of the care is entrusted are like temporary vicars, removable at the will of the chapter; see Garcias de Beneficiis, part 9, chapter 2, number 182 and following; Pitonius, *Disputationes Ecclesiasticae*, part 4, disputation 104. Therefore, the Sacred Congregation has also decreed that even canons elected by the chapter to exercise the care of souls require Episcopal approval, as can be seen in Aliphana, *De Curatione Animarum*, January 12, 1726. In this manner, eight canons deputed to the exercise of the care are in the same condition as other canons of the same chapter to whom no ministry has been entrusted; and just as the former cannot be admitted to hearing confessions without Episcopal approval, neither can the latter; since neither holds a parochial benefice. Nor is it to be understood that, simply because the matter concerns a cathedral church, the Bishop's power to hold an examination or to give his approval is taken away. For it is certainly possible for the Bishop to subject the canons elected by the chapter, or by others having authority, to exercise the care of souls, to an examination, and to order them not to

Translated by churchlatin.ai, a product of Boyne Archives

proceed without his...

[*Latin ed. p. 555*]

Regarding parochial rights, 555, they exercise the care with approval, although they may also have been engaged in the exercise of the care for a long time without examination and approval by the Bishop. Thus, as García states in the cited work, and as several declarations of the Sacred Congregation of Councils indicate, the matter is understood.

ARGUMENTS FAVORABLE TO THE CANONICAL VIEW. The foundation for the canonical view rests on the circumstances of the case, namely, that it is not about any Cathedral Church, but about a particular Cathedral Church, within whose care the souls reside. Given this, each member of the Chapter, who becomes a Canon by virtue of the completed possession, has the right to all the offices and duties of the parish, and therefore, by the same fact, becomes a parish priest: and therefore, all those duties and rights belong to them which are inherent in the parochial office. And just as any priest, by the very fact that he is constituted a parish priest, is able to hear confessions, without needing special approval or delegation from the Bishop, so too, these Canons, by the very fact that they become Canons, are parish priests. To support this theory, the authority of the Council of Navarre, 8, on privileges, number 9, is cited, which held that Canons cannot be examined by the Bishops, because, by the very fact that they are appointed as Canons by the Chapter, they have the added faculty of exercising the care. Fagnanus also, in the aforementioned chapter of book I, Decretum de Officiis Vicariorum, number 13, observes that when a Cathedral Church has a parish, the parochial rights belong not to the Bishop, but to the Chapter. Therefore, it can be concluded that the Chapter may possess parochial rights, even without the knowledge of the Bishop. But the Canons come under the name of the Chapter. Therefore, the approval of the Bishop is in no way required, in order for the Canons of the Cathedral Church to be able to properly receive confessions. Therefore, the Canons of the Cathedral Church rightly invoke the disposition of the Council of Trent, Session 23, Chapter 15, on Reform. This applies to all Canons, and even more so to those who...

[*Latin ed. p. 556*]

556. From St. G, it is clear that those who are found to be exercising the care demanded by the Chapter are Vicars General. For these Vicars General are substituted in the same jurisdiction, office, or care, as indicated by the Glossary, commonly accepted in Clement. I. V. Presbyter, concerning privileges. They must therefore exercise the same jurisdiction as that of the one whose place and duties they perform. Pirhing, *De Offic. Vic.*, title 28, section 1, page 1, number 23. Therefore, just as the Chapter has ordinary jurisdiction, which is in no way ambiguous, so too do the Canons

Translated by churchlatin.ai, a product of Boyne Archives

delegated by the Chapter; and just as they can perform other parochial duties, so too can they hear confessions. These points having been noted, the following questions were proposed to the Most Eminent Fathers, as we have transcribed above:

I. Can any Canon, when the care of souls is with the Chapter, validly and lawfully hear sacramental confessions without the permission of the Ordinary?

II. Are Canons to whom the care of souls is entrusted, obliged to undergo an examination before the Ordinary in order to be able to hear confessions?

III. What is to be done in this case?

The Sacred Congregation, in its deliberations on April 1, 1876, reformulated the questions as follows:

FIRST QUESTION. Can Canons of the Metropolitan Church of B. validly and lawfully hear sacramental confessions in this case without the approval of the Ordinary?

SECOND QUESTION. Are the aforementioned Canons, who are designated for the care of souls, and who are removable at the will of the Chapter, in this case, required to have prior approval from the Ordinary in order to exercise the care of souls?

[*Latin ed. p. 557*]

Regarding parochial rights, 557 And he responds: To question I, negatively. To question II, affirmatively, regarding approval, even with a prior examination, if the Ordinary judges it necessary in each individual case. THEREFORE, THE FOLLOWING CAN BE INFERRED: I. Whenever the question arises concerning the right of a certain presbyter to hear confessions, it must first be considered whether the priest possesses jurisdiction; for, besides the remote power of Holy Orders, the proximate power of jurisdiction is required, so that any priest may validly and licitly receive confessions. For the sacrament of penance is an act of judgment, and contains a sentence which can only be imposed upon those who are subject to him; and those who are not under jurisdiction are not considered to be subjects, therefore jurisdiction is necessary. II. This jurisdiction, unless it is ordinary or delegated, cannot in any way be supplied. III. The canons of the cathedral church, even if they are curates, do not possess either ordinary or delegated jurisdiction, since the habitual care remains with the Chapter. IV. Nor are those canons to be considered to possess jurisdiction, to whom the exercise of the cure is demanded annually by the Chapter. For in this case, the care of souls, and the rights of the parish, are as if torn away from the Chapter, and the canons chosen by the Chapter to exercise the cure are, as it were, temporary vicars, removable at the will of the Chapter, to whom only the administration of the cure is entrusted. V. Lacking jurisdiction, the canons of the cathedral church cannot exercise the cure, as the Council of

Translated by churchlatin.ai, a product of Boyne Archives

Trent prescribed in Session 23, Chapter 15, concerning reform.

[*Latin ed. p. 558*]

From the Sacred Congregation of Councils, Decree 558, Volume I. Concerning the causes for which the Sacred Congregation has decided in this case: it has been decreed that even those who are appointed as Curators within a certain Cathedral Church, who are designated for the care of souls, require the approval of the Ordinary in order to validly and licitly to hear confessions; and that the Ordinary, if he judges it necessary, can also subject them to examination in individual cases.

JOYFUL INDULGENCE. July 1, 1876. Summary of the case. Franciscus C., Canon of the Cathedral Church of N., presented a petition to the Most Holy Prince, explaining that he had obtained a grant of the joyful indulgence since the year 1868, through a rescript from the Sacred Congregation of Councils. In that rescript, among other things, it is written: "Although he will not serve in the future, nevertheless he may still receive all the fruits and distributions of his Canonry, as if he were personally present at the choir and divine offices." Notwithstanding this pontifical grant, he has, in accordance with the Capitular Constitutions, which have not been approved by the Holy See, continued to celebrate the Conventual Mass, either personally or through others. However, the orator stated, that now that he has reached the age of eighty-five years, and is therefore no longer able to effectively fulfill the burden; and that it is not easy to find another who can take his place; therefore, he humbly implores that this burden be removed from him, for the sake of mercy, so that it may not hinder the effect of the grant of the joyful indulgence.

The Ordinary, having been requested by the Sacred Congregation of Councils regarding such petitions, transmitted the objections of the Chapter, and of the Canon, as well as a portion of the Capitular Constitutions.

[*Latin ed. p. 559*]

Jubilationis 559, which reads as follows: Chapter XXIII, On Dispensations, page III. "Concerning those who, while absent, are considered present. " Number I. "Finally, those who, having commendably fulfilled their service to the Church and the choir for forty years, and who have obtained, with the prior consent of the Chapter, a dispensation called the 'jubilee,' are excused from the burden of celebrating Masses in turn by the Holy See."

A synoptic discussion.

THOSE THINGS WHICH FAVOR THE PETITION OF THE CANONICAL PREPOSIT.

The constant and universal observance of any Church, and almost count-

Translated by churchlatin.ai, a product of Boyne Archives

less declarations of the Sacred Congregation of Rites, seem to suggest that the petitions of the Canonical Preposit have been received with a benevolent favor. And concerning observance, it is known to no one that Canons who, after a laudable and continuous service of 40 years rendered in their Church, have been admitted to enjoy the dispensation of the jubilee, have been excused from the burden of celebrating Masses in turn. And the reason for this dispensation seems to be founded in the very dispensation itself; for just as, through the same dispensation, the one who is jubilated is excused from attending the choir, so too he is freed from any burden that depends on the choir attendance or on the service of the choir, as long as it has an accessory nature and reason. But an accessory must necessarily follow the principal nature, according to rule 42 of the Regulations of Canon Law, in section 6: "An accessory follows the nature of the principal." This is in accordance with the law of Nihilo Dato 129, in the Regulations of Canon Law: "When the principal cause does not exist, neither do those things that follow it have any place." Therefore, when the principal burden is removed, those things that have taken the place of accessories must be extinguished, according to section 1, paragraph 2, of the regulations on peculair legates.

Indeed, the burden of celebrating the conventual Mass, or the Mass in turn, and of applying it, depends on the service of the choir, and is derived from the constant practice of the Sacred Congregation of Rites. Therefore, he who is not obliged to attend the choir, or to perform the service, is not obliged to celebrate such a Mass.

[*Latin ed. p. 560*]

560 It appears to be bound by the decrees of the Holy See concerning the celebration of the Divine Office. It is undoubtedly true that such a principle is based on numerous resolutions of the Holy See. Among others that could be cited here, suffice it to mention the decrees of Serien, celebrated, and applied. Minutes of the meeting of March 12, 1839: Nepeta, March 7, 1718, and especially Praenestina, September 5, 1835, in which the question was raised: whether jubilant canons are obliged to sing and serve at conventual and feria Masses. The response was: No. The constitutions of that chapter, being only approved by the Bishop, cannot exercise any force against the decrees of the Supreme Pontiffs and the practice of the Holy Congregation. For it is forbidden in chapter constitutions and in diocesan synods to establish laws that are contrary to the rescripts of the Pontiffs and the general discipline of the Church. The pious Church, following the example of what is customary in temporal service, has introduced, out of kindness, that jubilant canons are exempt from participation in the choir and from any burden dependent on the service of the choir. Regarding point E), Saint Ambrose, in his book on widows, near the end, says: "The soldier, having completed his service and received his pay, lays down his arms and is released from the office he held, so that he may enjoy the rights of a veteran

Translated by churchlatin.ai, a product of Boyne Archives

and may find rest from his labors, and may be more ready to perform works for the future tranquility." These words of Saint Ambrose would surely ring hollow if a canon, burdened with the obligation of serving Mass in turn, were still pressed with this duty: for he would not lay down his arms, he would not abandon the office he held, he would not enjoy the rights of a veteran, nor would he find rest from his labors. This custom, which was universally introduced in his time, is attested by Pope Benedict XIV in his work on Diocesan Synods, book 13, chapter 9, number 15: "Hence, a universal custom arose, that canons and others who are devoted to the service of the choir, if they have diligently performed this service for forty years, should be excused from it in the future, but they shall still receive the fruits and distributions."

[*Latin ed. p. 561*]

561. They should understand this in the same way as before. Finally, in the aforementioned passage, it adds: "It must be noted here that those who have obtained this [position] are not only no longer obligated to attend the choir, but they are also not required to reside in the city or place where the cathedral or collegiate church is located, in which they hold a canonry or benefice, or another choral office, but they are free to establish their residence elsewhere."

However, it could be argued that any canon, by these capitular constitutions, has renounced the right granted to him by law, namely, that it is permissible for everyone, according to the penultimate passage of the Digest concerning agreements [De pactis]. To this observation, it can be replied that such a rule loses its force whenever it concerns a law that pertains to public order, and which, as in the present case, has been promulgated for the public good. In such a case, no renunciation can be considered, since the effects of such a law should not depend on the private will of individuals; rather, everyone must conform their actions to this law, which contributes to the public good. For that which is contrary to the law must, of necessity, be considered void, according to Rule LXIV concerning the law [De reg. iuris]. This is in accordance with the law concerning public law, 38 ff. concerning agreements [De pactis] – there: "Public law cannot be altered by private agreements," and, joined with chapter 12 at the end of the section concerning competence [De for.], where it is said: "One cannot, by a public grant, derogate from private agreements."

However, even if it were granted that canons could, by renouncing this favor and privilege, cede to it, as mentioned above in the passage from the Digest concerning agreements [De pact. penult.], such a legitimate renunciation does not invalidate the person who renounces, and much less could a renunciation operate to the detriment of another, as is stated in law 74 ff. concerning the law [De reg. iuris] – there: "Nor can that which belongs to another be taken away without his consent."

Translated by churchlatin.ai, a product of Boyne Archives

Furthermore, it cannot be asserted that a canon, as prelate, has made his own renunciation, which was issued by his predecessors in the constitutions; as is also stated in Acta, volume IX, page CVII, 36.

[*Latin ed. p. 562*]

562. From the Sacred Congregation, a dispensation for the celebration of Misses of Jubilee has been granted in such a manner. For at first, these were so few that they could not establish a custom to the contrary. Furthermore, it is established in law that a custom acquires its force from the will of those who perform certain acts, so that they thereby establish an obligation. *Leg. 32, ff. de leg.* Therefore, with this understanding, it may still be doubted whether the Jubilarian and others have undertaken the burden of the Masses with the intention of obligating themselves, for a custom which establishes an obligation must be strictly interpreted. Moreover, the intention of obligating oneself through acts performed by the celebrant is lacking, given the present controversy. Furthermore, it should not be forgotten in this matter that the Canon is in such an age that he is continuously afflicted with infirmity, as the Roman philosopher testifies: "Old age itself is a disease." Therefore, just as the Jubilarian would not be bound by the burden of service to the choir, or the celebration of Masses, if he were to fall ill, so too he should be dispensed from any obligation, because in such a state of age, he is considered to be assimilated to and equivalent to a sick person. Therefore, whatever may be the principles of law favorable to the Canon, it should also be remembered that, rather than a strict application of the law, the matter concerns a grace to be granted. But for the granting of this grace, certain additions and special reasons are required, which are sufficient to override the general rules of law (in the Constitutions of the Chapter of this place) without causing serious harm to those concerned or to opponents. There is no doubt that all these circumstances were present; for the Canon served the Church continuously and laudably for over forty years, and performed other duties as we have mentioned.

LAWS OF THE CATHEDRAL CHAPTER. It is certain that each Chapter can establish laws or certain statutes concerning particular matters, or concerning the proper administration of the Church or of the Chapter itself. These statutes and laws, if they concur...

[*Latin ed. p. 563*]

Jubilatory assignments, along with the other required conditions, are considered valid even without the explicit consent of the Bishop, as the Glossa states in chapter [of the] Constitutions, verse [regarding] the signification of the word, in 6. A bbasin. c. with all numbers 4. Barbosa, in *De Canonicis*, chapter 42, number 16, after the *Rota* in Herden. The Statutes of May 19, 1597, were presented before the Reverend Father in Corduba; and in the *P* aduana Sedilium of January 26, 1618, before the

Translated by churchlatin.ai, a product of Boyne Archives

Most Reverend Cardinals of the Sacred Congregation. Indeed, there exist properly enacted Chapter Constitutions, with the approval of the Bishop, which command all Canons, even those who have received the jubilation, to fulfill the obligation of celebrating Mass in turn. Therefore, such Constitutions, having been issued by one who possesses authority and right, are to be considered valid; and the Canons are obligated to conform to them, especially because, upon acquiring the canonical position, they promise, by oath, to observe them religiously. To this principle of law, the practice of the Sacred Congregation must be added; which, in Reatina, in the Distribution of April 19, 1692, declared that the grant of the jubilation renders the Canon exempt from the conventional obligation of Mass, and from other chapter obligations, immediately adding this limitation: provided that it does not contradict particular Constitutions and the custom of the Church. To this must be added that such Chapter statutes have been observed up to the present day by all. The great value of such long-standing observance is easily understood, if one considers that custom has the force of law, and therefore both must be observed. If it were to be said that the burden is too heavy, it must be understood that this concerns not a particular, but a general disposition, which affects all Canons in general, without any exception, which has been freely and spontaneously offered by all of the Chapter, and has been ratified, and therefore, no one is permitted to reject it at present. Nor is this new in law, that anyone can renounce any right or privilege granted to him in his favor, if he so wishes, as is evident from the penultimate law in the *Digestion* concerning pacts. And thus, he imposes a private law upon himself. This law, then...

[*Latin ed. p. 564*]

564. A dispensation granted by the Holy See, arising from a special agreement or pact, is undoubtedly to be observed, because agreements must be kept, according to canon 2, concerning agreements. Moreover, even according to natural law, as stated in leg. 1, ff. ibid., natural law dictates that agreements should be upheld. For what is more fitting for human faith than to observe those things that have been agreed upon between parties? The burden of the dispute cannot be considered a grave matter; for the priest was established by the Chapter, who is obligated to celebrate all the Masses on weekdays; therefore, it is rare for canons to be subject to this burden. On the other hand, an exemption would also violate the Chapter's Constitutions. It does not help to render a portion of the Constitutions useless by granting or denying a dispensation for jubilation, or by restricting the privilege of jubilation, by which a cleric is excused from any obligation, provided it depends on the performance of service. Indeed, although the Pope can correct or abolish any laws, it is certain that the Popes do not abolish general constitutions, nor do they revoke reasonable customs, nor local statutes and agreements, unless the legislator expressly

Translated by churchlatin.ai, a product of Boyne Archives

states it. Thus, it is commonly held in chapter 1, concerning Constitutions, in 6: "However, the Roman Pontiff can reasonably ignore the customs and statutes of particular places and individuals (since they are based on facts and consist in facts); but, provided they are reasonable, they are not understood to be derogated from in any way by a constitution newly issued by him, unless expressly cautioned in it." Therefore, when a dispensation for jubilation has been granted to a canonical prebendary under general conditions, and no mention is made of any particular laws of that Chapter, and since these Chapter statutes are based on facts, which the Holy See can therefore ignore, and since they are reasonable; it appears that the Pope has not wished to establish or revoke anything contrary to them; but rather, it is to be presumed that he has wished to leave them in their full force and effect.

[*Latin ed. p. 565*]

Having considered the arguments on both sides, the following question was put forward to resolve the doubt: Whether a Canon regular is bound, in a case of this kind, to attend the Masses celebrated by turns.

RESOLUTION. The Sacred Congregation, after due consideration, on July 8, 1876, responded: No.

FROM WHICH THE FOLLOWING ARE DERIVED:

I. The obligation to celebrate Masses by turns appears to be an accessory duty, dependent on the service of the choir; therefore, a Canon regular, exempted from the service of the choir by the grant of the jubilation, is not thereby further bound to attend the turn of the Masses.

II. Accessory duties, indeed, are proper to follow the nature of the principal duty; therefore, if the principal duty is not present, nor are those things which follow it.

III. The grant of the jubilation imitates the pious custom of the Church, which is analogous to what is done in temporal service: for a soldier, having received his pay, lays down his arms and enjoys rest after the labors of his life.

IV. The custom of such a jubilation (which is strengthened by the practice of the Sacred Congregation) was, as Benedict XIV testifies in Synodo Dioec. lib. 13, cap. 9, n. 15, universally introduced in its time: "In the written law, there is no canonical provision concerning the privilege of jubilation. However, it seems to have been introduced from equity, following the example of the priests of the Old Law, n. 8, 25 and 26." And further, Benedict XIV says (De Synod, dioec. 1. XIII, cap. 9, n. 15): "It has been observed in the Mosaic law that the Levite, who had faithfully performed his service in the temple from his twenty-fifth to his fiftieth year, was declared free from all subsequent work and labor..." Or, finally, the example of veteran citizens

Translated by churchlatin.ai, a product of Boyne Archives

who, after long service, were released from the burden of military duty, yet retained benefits (lib. A muneribus ff. de vacat, et excusat, muner, lib. 1, cap. De veter.).

[*Latin ed. p. 566*]

566 From St. Charles Borromeo, Volume V. Constitutions of Chapters lacking papal approval cannot exercise such force as to contradict either the decrees of the Roman Pontiffs or the general discipline of the Church. VI. Although it is permissible for everyone to appeal to the law in their favor; nevertheless, this has no place when the same law concerns the public order: because the public law cannot be altered by the will of private individuals. VII. It may seem that a particular provision of the chapter statutes contradicts the general discipline of the Church; for, by granting an indulgence, an exemption is often granted from the service of the choir and from any burden dependent upon it; so that the one granted the indulgence may depart from the place of the benefice and establish a domicile elsewhere.

DOUBTS REGARDING MATRIMONIAL DISPENSATIONS WITH REGARD TO THE LACK OF SUITABLE MATCHES. July 8, 1876. Summary of the case. The Vicar General of the Most Reverend Bishop O. presented to the Most Holy Prince, whom God may preserve for a long time, a suppliant letter, in which he explained: "In this Diocese, there are very few populated areas, and almost all parishes are composed of several villages and hamlets, often separated by a distance of one, two, or even three leagues, so that the larger parishes consist of several villages. The custom has prevailed of not alleging the reason derived from the lack of suitable matches when seeking matrimonial dispensations, unless the petitioners belong to a parish whose number of inhabitants does not exceed three hundred. This practice seems to be devoid of foundation and utterly unjust, because the reason for the lack of suitable matches exists not only when..."

[*Latin ed. p. 567*]

Doubts concerning dispensations, marriages, with regard to the narrowness of a place 567: "In some parishes, the number of houses does not exceed three hundred, but even in "most, which exceed that number, the "inhabitants of each village, or hamlet, only see "those who live in other parishes of the same kind, "when they gather together in the church to perform "religious duties, and it almost always happens that "more churches are found in the "same parish, or that people from neighboring "parishes come together to hear Mass, and therefore "there is a lack of "familiarity, friendship, and often even "knowledge among the inhabitants of the "same parish. All authors, when discussing "this matter, unanimously call it the "narrowness of a place, but never the "narrowness of a parish: indeed, in some "very small parishes, this reason cannot be "alleged, unless the place

Translated by churchlatin.ai, a product of Boyne Archives

itself is not "small, as happens in suburbs, as has been "clearly stated. Also, in granting "dispensations, both in the Sacred Registry and "in the Penitentiary, no mention is ever made "of the narrowness of a parish, but always "of the narrowness of a place.

Moved by these reasons, and also considering the "good of the faithful, he requests that Your "Beatitude would be pleased to declare:

1. Whether the narrowness of a place should be "understood from the number of houses in a "certain parish, or from the place or places "in which the faithful reside.

2. Whether it can therefore happen that the "aforementioned reason can be "considered, even if the faithful belong to a "parish that exceeds the number of "three hundred houses, provided that the "place or village in which they live is "small.

3. In what cases in this diocese cannot the "reason for the narrowness of a place be "alleged?

4. Is attention to be paid to the number of "houses that are found in each square league?

5. What number of houses should be "considered sufficient in each square league "area, so that a place cannot be "considered narrow?

[*Latin ed. p. 568*]

568 From the Synoptic Discussion of the Sacred Council. The narrowness of a place is one of the more frequent causes for which dispensations from marriage are granted, especially in cases of consanguinity and affinity of a more distant degree. Thus, Sánchez on marriage, disputation 19, number 12; Palao on betrothal, disputation 4, final point; Bosco on marriage, disputation 12, section 13, conclusion 4, number 260; Corradi in practical dispensations, I, 7, chapter 5; De Justis on marriage dispensations, I, 3, chapter 2, and others. Furthermore, by the narrowness of a place is understood a place in which a girl cannot find a spouse of equal or similar standing, unless it be a relative or an affine; consequently, if she were not permitted to marry such a person, she ought to remain unmarried, or marry someone who is inferior in status, condition, or wealth, or who differs in age, morals, character, or religion. For not only differences in status, birth, and wealth, but also any other inequality constitutes the narrowness of a place. Sánchez, cited above; Bosco, cited above, number 15; Tusc. letters, M., council 157; argument I. Nuptiae, C. de nuptiis, there: even if they are equal in birth and morals, joined. Canon 22 concerning wills and attestations. Hence, it is found in the Apostolic Decrees that this clause is frequently included: "Since the petitioner, being born in the aforementioned place, cannot find, due to the narrowness of the place, a man who is not a relative or affine of equal condition to whom she can marry, we command that, insofar as you find that the prayers are based on truth, then by our authority, grant

Translated by churchlatin.ai, a product of Boyne Archives

a dispensation." And the most important reason for this cause is that it is very advantageous for the common good that marriages take place between equals. Tiraquel, I, 5, on conjugal affairs; Navarro, Ledesma, and Lopez, Vaga, cited by Sánchez. For unequal marriages often have unhappy outcomes. Indeed, if a man does not lead a life of cohabitation, he will never, or rarely, obtain a good result from it, and he will very often fall into misfortune; Cepol. in commentary, page 137, number 7: on the contrary, if the husband and wife are of one heart.

[*Latin ed. p. 569*]

Doubts concerning dispensations for marriage, regarding the narrowness of the locality, the age of the parties, which naturally please one, will please equally the other, Tiraquel, loc. cit. If a man finds his wife to be poor, he introduces poverty into his house; but if he finds her to be rich, he introduces turmoil. Nuytz in syl. nupt. I. 2 no. 55. If, finally, a nobleman marries a commoner, he will always be called a rustic and will be despised; because neither is the friendship of the poor safe with the wealthy, nor is it sufficient. Bal. in I. per adoption, ff. de adopt. It is not required that a strict and exact investigation be made to determine whether a woman, free from impediments, can find a man of equal standing with whom to marry in that place, but moral diligence suffices; indeed, it suffices if a girl, decently adorned, and as it were, presented for marriage for several years, has not found anyone to seek her as a bride. De Iustis, Corradi et Sánchez, cit. For the modesty and virtue of young women do not permit them to seek out husbands for themselves. Can. Honorantur caus. 32 q. 2, - ibi: It is not the duty of virginal modesty to choose a husband. Furthermore, to verify the narrowness of the locality, it is not necessary to investigate most exactly whether there is not, or is not, a man of equal condition with whom the woman could marry. This does not seem to be to be understood so strictly, but also in a moral sense. It is sufficient if it is commonly not found in that place men of equal standing who are not relatives or affines. Because marriages ought to be free, and many conditions require that suitability and equality be judged, it is very important that a woman not be restricted to one or the other, but that various options be offered to her. For even if two or three are found, it will be said that no man of equal standing is found; indeed, this clause is verified if the majority of the town or locality is of unequal standing, or it can be said, according to the common way of speaking in that place, that no one of equal standing is found: Sánchez, Wigers, Tamburinus, Diana. Indeed, it is considered that the narrowness of the locality is present even if, in the vicinity, a woman could have a man of equal standing who is not a relative.

[*Latin ed. p. 570*]

570 From the decree of the Council of Trent concerning the river or

Translated by churchlatin.ai, a product of Boyne Archives

boundary, since this dispensation in this matter is commonly granted freely and without condition; for although it is strictly of the law and must be strictly interpreted, as stated in the chapter "De consanguineis et affinis" (Concerning Relatives and Affines), chapter 1, at the end, concerning the son of a priest, in paragraph 6, nevertheless, it must be interpreted broadly, as the words sound, and the nature of the words themselves requires, as Germen states in his practice, chapter 20, number 4. Indeed, if the Supreme Pontiff had wished otherwise, he would certainly have expressed this in the wording of the dispensations, and therefore he would have said: "provided that the woman cannot find a man of equal condition in another nearby place," or other words of equivalent meaning; but since it is sufficient that the woman cannot find a man of equal condition because of the narrowness of the place where she was born, or because she has a permanent residence there, we must not depart from the force of the words, and it is rightly and absolutely said that it is a sufficient reason not to find a marriage of equal standing within the woman's own place: just as it must also be said concerning a woman who has a dowry that is less than appropriate; for this is another sufficient reason, and it is sufficiently verified, although she may have been able to find a marriage of equal standing with that dowry in nearby places, but not in her own place; concerning which there is an explicit declaration from the Sacred Congregation, at the request of the Archbishop of Mediolanensis, on November 28, 1570, in these words: "That clause, because she cannot find a man who is not a blood relative, or an affine of equal condition, is verified and justified, especially when considered only in the woman's own place and not in neighboring places." Sánchez, Corradi, and Reiff, *ad instar* of dispensations, part 1, section 4, number 3, paragraph 77. However, the question remains as to what kind of place should be considered, which is usually called an "oppidum," because of the narrowness of which the dispensation is granted: whether, that is to say, it must be a city, a town, or at least a significant and populous "oppidum," or whether a more narrow place is sufficient, or rather should be, such as a small city, a common "oppidum," or a "pagus" or village, which is very relevant to the matter.

[*Latin ed. p. 571*]

Doubts concerning dispensations for marriage, with regard to the narrowness of a place. It was formerly admitted, as a cause for matrimonial dispensations, namely, because of the narrowness of a place, not only in narrow places, but also in large and populous ones, even in great cities, as well as in the City itself, because women of such quality could be found, who could not find men of equal condition with whom they could marry. But since it seemed unlikely, not only in such large places, but even in small cities, that this cause could be verified, Paul V abolished it with regard to the narrowness of cities, and it is no longer admitted thereafter. Nor, by

Translated by churchlatin.ai, a product of Boyne Archives

this reason, namely, by the appellation of a place, by whose narrowness the dispensation is granted, do suburbs of a city come under consideration, as was written to the Bishop of Lauden, by the Dataria, by order of Clement XI, unless they are a mile, or a little less, distant from the city. However, because it frequently happens in some cities, and in most other towns, that women truly do not find men equal to themselves, and thus the cause of such narrowness can truly be verified in these places, it is admitted, provided that the place does not exceed the number of three hundred households, and no otherwise: for in the terms of the dispensations, this clause is also found, namely: "And provided that the aforementioned city does not exceed the number of three hundred households." From Justi and Corradi, cited. Hence, Reginald, Sánchez, Tannerus, and others commonly, although they speak of a city, a town, or a notable or famous place, or a larger town, nevertheless exclude smaller towns, and villages, or hamlets, from being considered among narrow places. Indeed, Gobat, in *Theol. experiment.*, tract. 9, n. 648 and following, understands narrow places, and in particular villages or hamlets, in the sense of places that have the effect of which we are speaking, and rightly so. Reiff, cited, n. 78. For, in order for a dispensation granted because of the narrowness of a place to be maintained, it is only required that in the town, or place in which it arose, or in which it is located, there are not...

[*Latin ed. p. 572*]

572 From the Sacred Canons of the smaller councils, it is not found that many of equal condition are joined together without being connected by consanguinity or affinity within the fourth degree. This is said concerning the *oppidum*; for the term *oppidum* is used absolutely by Hurtado, Eiectus, Tamburinus, and others widely: indeed, by *oppidum* in this matter, it is also understood the *pagus*, or village, or small town; for Hurtado, Palaus, Diana, and generally others, without any limitation, say: "if a bride cannot find a husband of equal standing in the place of her domicile, and Innocent X absolutely expresses the anguish of the place in a Brief addressed to a certain Apostolic Nuncio, granting him the right 'to dispense with any persons who, because of the narrowness of the place... or for other reasonable causes, wish to contract marriage with each other.'" The reason for this is evident; for even many educated women in small towns, or villages, find it extremely difficult and very burdensome to marry outside their own place, even if it is nearby, abandoning their own and their loved ones, and thus leading a harsh and almost solitary life, deprived of the companionship of their father and mother, relatives, and friends. Tamburinus, cited above. In truth, considering the purpose and intent of the law, it should be, and indeed ought to be, a smaller place, and less populated, so that when one seeks to obtain a dispensation because of the narrowness of the place, it is an *oppidulum*, not too large, or a *pagus*, or

Translated by churchlatin.ai, a product of Boyne Archives

village, and so that this request is granted in such a way that in a city (for the term *civitas* is generally used by the style of the Curia to refer only to the cities where the Bishops reside) and where there are more than three hundred hearths, the narrowness of the place is not given, or is entirely not admitted, as has been said. Reiffenst. cited, no. 79. Finally, this opinion is confirmed by continuous and common practice, and by the style of the Curia which is considered to be the law, in Chapter *ex Uteris, de const.*; and in the chapter *quam gravi de crim. fai.*; from which it is evident that even those living in the smallest villages, for the reason of the narrowness of the place, widely seek and obtain marriage dispensations.

[*Latin ed. p. 573*]

Doubts concerning dispensations for marriage, regarding the narrowness of a place 573. In the case, however, where a woman wishes to marry her relative, solely because she cannot find anyone of equal standing in the small town in which she resides, but finds several such individuals in the place of her parish church, which is only half an hour away, Tamburinus believes that there is still no clear hope for a dispensation, and that it would be a doubtful matter: therefore, because the circumstances of the parish church are so close that this woman cannot, in a manner of speaking, truthfully say that she does not have anyone of equal standing in her place of residence to marry: then, because, on the one hand, it seems that a short distance is nothing; Tiraquel, in his treatise on judgments in extraordinary matters, states this; and, on the other hand, it is considered that one resides in the place of his parish church if he is accustomed to attending divine services there. On the contrary, Gobat, in the aforementioned passage, number 650, states that, absolutely, the canons say that a girl can enjoy the benefit of a dispensation even if she finds a man of equal standing in a nearby place to her homeland: Sánchez, Riccius, Wigers, and others, therefore, do not believe that this woman would be deceiving anyone by obtaining the dispensation she requested, claiming in good faith that she cannot find a suitable partner in her place of residence due to the narrowness of the place. Indeed, all the aforementioned reasons for the law seem to be verified even in the case where the parish includes several towns, or villages, or small towns, more or less distant from each other. For they absolutely speak of the narrowness of a place, and not of the narrowness of a parish: even in this case, the bride would be forced to abandon her family and friends, and thus live a bitter and solitary life, deprived of the companionship of her loved ones. Especially since a parish, which in the case in question is only half an hour away, in some places encompasses not only a distance of two or three leagues, as in the example, but also much more, as, for example, in America, where parishes are found that extend more than dioceses: and since there are usually one or two, or even more,

Translated by churchlatin.ai, a product of Boyne Archives

churches.

[*Latin ed. p. 574*]

574 From the Sacred General Council, within the boundaries of these parishes, the parishioners do not usually frequent the divine services in the same place; thus, if a parish is divided, there would undoubtedly be no difficulty whatsoever in admitting the narrowness of each individual place by itself; but, on the contrary, it could happen that in a truly august place, there are two parishes. Therefore, the relationship of a parish should not be considered when judging the narrowness of a place; for it is known that in law, that which is expressly stated is harmful, and that which is not expressly stated is not harmful; the legislator expresses what he wishes, and what he does not express, he does not wish; and when there is no ambiguity in the words, the question of intention should not be admitted: Arg. I. p. 25 ff. on legislation. Therefore, it also seems that the narrowness of a place should not be extended to the narrowness of a parish. This principle of the statute, like a fertile bed, nourishes the resolution of the orator's doubts: 1. The narrowness of a place should not be deduced from the number of households in a certain parish, but from the number of households in each individual place where the orators reside. 2. Consequently, it can happen that the aforementioned reason holds true, even if the orators belong to a parish that exceeds the number of three hundred households, provided that the place, or village or town, in which they reside is sufficiently small. Indeed, in the Order of [Discalced] Carmelites alone, the custom prevailed of limiting the narrowness of a place to the narrowness of a parish, when neither the laws, nor the Decrees, nor the common practice require this limitation. 3. Although this doubt may seem obscure or contradictory, it can nevertheless be said in general: undoubtedly, the narrowness of a place, or any other reason for dispensations, cannot be alleged in a case in which it is not truly verified, whether with or without respect to the parish. 4. By no means should attention be paid to the number of households that are found in each square league. This is entirely contrary to the law, the Decrees, and the common practice; moreover, the same reasons that militate against this limitation also militate against the limitation to the parish. Any innovation, except for new...

[*Latin ed. p. 575*]

Doubts concerning dispensations from marriage, with regard to the narrowness of a place, would be extremely difficult to apply in practice, given the narrowness of each place, understood both in a moral sense and in the natural sense of the word: therefore, the law has sufficiently provided for this case. However, it must be noted that the matter concerns a wholly singular custom of the Curia of O., which is considered to be founded on a defect and is deeply unjust, because the narrowness of the place is understood

Translated by churchlatin.ai, a product of Boyne Archives

in a stricter sense, while the laws, Doctors, and common practice admit a broader and more lenient interpretation; therefore, it would seem that nothing prevents the Bishop, by consulting with superiors and exercising his own right, from introducing a different custom or practice, which he judges to be more expedient in the Lord. Nevertheless, it will be with wisdom, religion, and prudence that the superiors will decide whether and how such requests should be granted. RESOLUTION. The Sacred Congregation of the Holy Office, on July 8, 1876, responded: "Delayed and approved in principle." The intention was to consult the Sacred Penitentiary regarding this matter; which, after being consulted, replied that it found nothing in the archives that could constitute a certain and definitive norm regarding the declarations and doubts of the Vicar General of the Diocese of O. Therefore, the question being proposed again, the Sacred Congregation, on December 16, 1876, considered it appropriate to respond: "The narrowness of a place should not be determined by the number of households in each parish, but by the number of households in each place, or even in several places, if they are not more than a mile apart; regarding the rest, provision has been made." FROM WHICH IT MAY BE GATHERED: I. Among the causes, which are still considered to be canonical for granting dispensations from marriages between relatives and affines, the narrowness of a place is most highly regarded. II. The place (which can be considered to be narrow) must be such that a girl would be compelled to remain unmarried, or...

[*Latin ed. p. 576*]

576. From Rome: To marry a blood relative or an affine, so that the betrothed might find someone of equal or similar standing. I. Equality or similarity between those to be joined in marriage is derived from their status, condition, wealth, age, morals, intellect, and religion. IV. It is not considered to be within the jurisdiction of the Holy See if a place, whatever its name, exceeds the number of three hearths. V. Nor can a lack of jurisdiction be inferred from the number of hearths in any place, or in several places that are situated close to each other within a Roman mile. VI. The custom or practice of the Curia [of a diocese] cannot be admitted, since it is not in accordance with the laws, which speak of a lack of jurisdiction, and certainly not of a lack of jurisdiction within a parish.

FROM ROME: APOSTOLIC LETTER TO THE BISHOPS OF THE HELVETIC NATION.

To the Venerable Brothers, Stephen, Bishop of Lausanne, and to the other Bishops of Helvetia, and to the beloved sons of that region, clerics and faithful who have communion with the Apostolic See, from Pope Pius IX.

Venerable Brothers and beloved sons, greetings and the Apostolic Blessing.

Translated by churchlatin.ai, a product of Boyne Archives

The events that have occurred in this Helvetic region during the past month of September, in which a sacrilegious consecration was rashly performed by a certain Pseudo-Bishop, whom the neo-heretics, who call themselves Old Catholics, did not hesitate to appoint, have justly caused you, Venerable Brothers, great sorrow, and have prompted you to raise your voices against such things.

[*Latin ed. p. 577*]

The Apostolic Letters denounce the execrable deed and the scandal brought to the faithful people, and urge you to act with common counsel. Indeed, it was entirely fitting that, with your vigilance and concern, you demonstrate your abhorrence of those impious individuals, and show that nothing can be erected or stand within the ecclesiastical Hierarchy except that which is founded on the cornerstone and on the solidity of the Apostolic Rock, and that, as avengers of the true faith and defenders of Catholic unity, you fortify the minds of your faithful against the snares and machinations of the children of perdition, with a fitting and weighty declaration which you issued last September. Although, as we stated in the letters addressed to you on March 23 of last year, we utterly condemned and rejected that neo-heretical sect which has so miserably spread and disturbed your country, nevertheless, it has not abandoned its plans, but rather, persevering in its wicked designs, it omits no form of deceit or trickery, in order to deceive the children of the Catholic Church with its hypocrisy and the usurpation of the Catholic name, and to draw them into the communion of its wickedness. Now, as we know, the adherents of that same heretical and schismatic sect, not fearing to add a new crime to their wickedness and audacity, have publicly subjected a certain Edward Herzog, who has apostatized from the Catholic Faith, from the canton of Lucern, to excommunication by his legitimate Ordinary, and in a meeting held in Ultini, they proclaimed him their Bishop, and then, in the town of Rhenofeld, they dared to perform a sacrilegious consecration of the pseudo-Bishop Joseph Hubert Reinkens, whom we have long since separated from communion with the Church. This unfortunate man, after receiving the sacrilegious consecration, is said to have, as has been reported to us, published letters in which he impudently attacks this Holy See, and seeks to incite the Catholic clergy of Switzerland to rebellion, and furthermore, presuming to confer priestly ordination on certain individuals lacking all legitimate mission and jurisdiction, for the sake of his wickedness. - *Huiusmodi*, vol. IX, p. CVIII, 37.

[*Latin ed. p. 578*]

578 From the Vatican, the abominable act of schism and consecration, how grievous it has been, how unworthy, how deplorable, you have clearly demonstrated, Venerable Brothers, in that very declaration mentioned

Translated by churchlatin.ai, a product of Boyne Archives

above, in which you spoke appropriately about the foundation of the heretical and schismatic faction, which impiety and the madness of wicked men in this region have attempted to stir up, about the miserable priests who, having been subjected to ecclesiastical penalties and censures, and having had the grace of their ordination trampled upon, about him who, having received an illegitimate consecration, ascends not through the door, but from elsewhere, like a thief and a robber, striving to divide and scatter the flock of Christ. But along with you, we too have felt deep bitterness, and have been deeply affected, considering the sacrileges and the most serious scandals committed, and the audacity with which the perverters of truth and the disturbers of Catholic unity are striving to bring about ruin, for which they will certainly have to render a grave account to the Supreme Judge; and furthermore, we consider that they enjoy favor and patronage, while the legitimate pastors, namely the Bishop of Basle and the Apostolic Vicar of GenÃ¨ve, are prevented from exercising their ministry, one torn away from a large part of his flock, the other exiled. These impious, grave, and disastrous deeds, which have been perpetrated in this region, which have caused great sorrow to you and to all good men, and which have inflicted new wounds upon the Church of God, we openly condemn and reject, by our Apostolic authority, and recognizing the duty of our supreme ministry, by which we are bound to defend the Catholic faith and the unity of the universal Church, following the example and precedents of our predecessors, and exercising the power entrusted to us from Heaven, we declare the first election of the aforementioned Eduard Herzog as Bishop, made contrary to the sacred canons, to be unlawful, void, and utterly null, and we declare his consecration to be sacrilegious, we reject it, and we detest it. Then...

[*Latin ed. p. 579*]

By Apostolic Letters, 579, We excommunicate and anathematize Edward Herzog himself, and those who attempted to elect him, and the pseudo-bishop Hubert Reinkens, the sacrilegious consecrator, and his assistants who aided in the sacrilegious consecration, as well as all those who adhered to them, and followed their ways, and who provided them with aid, favor, assistance, or consent, by the authority of Almighty God, and We separate them from the communion of the Church, and We decree and command that they be considered and treated as schismatics. Furthermore, We decree and declare that the aforementioned Herzog, elected rashly and without any right, lacks all ecclesiastical and spiritual jurisdiction for the governance of souls, and that the one illicitly consecrated is suspended from all exercise of the episcopal office. Those who have been initiated into the ecclesiastical orders by him must know that they are bound by the vinculum of suspension, and are furthermore subject to irregularity, if they exercise the orders they have accepted.

Translated by churchlatin.ai, a product of Boyne Archives

As for you, beloved sons, ecclesiastical men and lay faithful of the Helvetic region, We congratulate you in the Lord for that sincere faith and piety with which you strive against the devil and against the snares of his ministers, and with which you firmly adhere to the Mother Church and to this Apostolic See, and for your virtue, We give thanks to the divine benevolence. The time will come when the wicked will learn what profit their malice has brought them, and when you will understand what your constancy has brought you against those who are intelligent, namely, eternal joy and immortal glory. But this constancy, beloved sons, must be maintained perseveringly in the midst of the struggle, and must never be weakened or corrupted by permanent scandals, which, as is written, must necessarily come; yet, let it not be so that through them it is undermined and destroyed.

"God is one," says St. Cyprian, "Christ is one, and one Church, and one foundation upon the rock of the Lord." Another altar cannot be established, nor can a priesthood be created, apart from one altar and one priesthood. Whoever gathers elsewhere, scatters. He is an adulterer.

[*Latin ed. p. 580*]

580 From the Vatican: "It is impious, it is sacrilegious, whatever is instituted by human will, so that the divine disposition may be violated. Depart far from the contagion of these men, and avoid their words as you would cancer and the plague, trusting in the Lord and saying: 'They are blind guides: and if the blind lead the blind, shall they not both fall into the ditch?'" (St. Cyprian, Epistle 43, ed. Härtel). Since nothing would be more desirable to us than if we could, through the power of our Redemptor, deliver the souls of the erring from the dominion of darkness, we do not fail to earnestly implore Divine Goodness, that He would deign to bend the obstinacy of the erring with His powerful grace, and especially that He might move the hearts of those who are still deeply rooted in the mire, lest they fall headlong with those who have devoted themselves to Satan. For this purpose, and for this alone, we do not doubt that you, venerable brothers and beloved sons, will constantly perform the office of your prayers before God. Moreover, fervently imploring the fullness of heavenly lights, graces, and gifts from the Lord, and earnestly beseeching Him, that He may render futile and confound the efforts of those who seek to corrupt the Catholic faith and unity in your homeland, we impart the Apostolic Benediction, as a pledge of our most heartfelt charity, to you, venerable brothers and beloved sons. Given at Rome, near St. Peter, on the sixth day of December, in the year 1876, in the thirty-first year of our pontificate. PIUS PP. IX.

[*Latin ed. p. 581*]

Apostolic Letters 581 TO THE BELOVED SONS JOHN ACQUADERNI, PRESIDENT, AND THE ENTIRE SUPERIOR COUNCIL OF THE CATHOLIC

Translated by churchlatin.ai, a product of Boyne Archives

YOUTH SOCIETY, PIUS IX. BELOVED SONS, GREETINGS AND APOSTOLIC BENEDICTIONS. We have learned, beloved sons, with sorrow, that there are contentions among you; for while some, drawn to the doctrines of those who favor conciliation, believe that, having undertaken works of a lower nature, the spirit should now be raised to higher things, and turned to occupying the seats of public assemblies, from which they may be able to serve in more serious and general affairs of the Church; others, mindful that they have united themselves to support the Church, believe that they must hold to the path designated by ecclesiastical authority, and that it is their primary duty to promote those things which they have undertaken with the consent or approval of that authority, until that same authority advises them to act otherwise. Indeed, when this authority has not yet defined [a course of action], it is permissible, or not permissible, and in what manner, especially within Our jurisdiction, to involve themselves in public affairs; we certainly cannot approve of the plan of those who, anticipating the judgment of the sacred authority, consider it more fitting to guide it than to follow it. And this plan, at least for the present, is displeasing for this very reason, because we rightly fear that Satan may, in this case, disguise himself as an angel of light. And indeed, if you add your minds to the nature of the works instituted by your society, you will see that they pertain either to the sound upbringing of youth, or to fostering religion among the people, or to turning them away from the snares of error, or to preserving the Christian spirit, freed from the demands of military conscription, or to explaining and carrying out the mandates of the Church and of this Apostolic See.

[*Latin ed. p. 582*]

582 From the Vatican, laws, or those designed to meet the needs of the worship and the ministers of the sacraments, or for other matters which may strengthen the faith, kindle charity, promote piety, foster virtues, avert dangers, and encourage the spirit in adversity. This salutary plan, begun by a few and therefore extended to only a few things, has pleased God so much that, with the blessing of the Church, it has been quickly fruitful and has always been enriched with new additions, and has spread throughout Europe and other regions, bringing great benefit to the religious life and the salvation of souls, and has inspired various societies which so beautifully represent the Catholic spirit and so strongly confirm religious unity among the people. These things certainly could not please the enemy of Christ and of the human race, who, for this very reason, has created so many difficulties for the beginnings of these associations, and has harassed their members with calumnies, attacks, and insults. However, through all of this, neither the constancy of these associations nor yours could be weakened or disturbed. Now, having been converted into an angel of light, he sows schisms among you, in order to divide your forces, and he proposes a false

Translated by churchlatin.ai, a product of Boyne Archives

good, so that you may turn away from that which you are doing. This supposed good, you will certainly not consider to be obvious or certain, if you seriously consider his intentions. Every day, the results and actions of public elections and of public assemblies are before the eyes of the people in foreign nations. From the former, we learn that, for the most part, the corrupt are preferred to the honest; and from the latter, although Catholics are often of great authority and justly defend the cause of justice among the people, the laws of the Church are so often violated that, if it were not for the divine work itself, it would clearly seem to be destined for destruction. Therefore, uncertain utility is preferred to certain utility; and this is all the more dangerous, because it is not with the error of minds that one must contend, but with the hostile will of most voters, inflamed with hatred of religion. Furthermore, obedience to sacred authority is due—

[*Latin ed. p. 583*]

The Apostolic Letters 583, moreover, most emphatically demand that lay associations not be swayed by any opinion, but rather strive to follow its own guidance, lest they deviate from the sure path of righteousness. It will not be permissible for anyone to claim that, in the pursuit of a more noble outcome, those works which, though seemingly humble, have brought many back from error, have saved many, and have bound peoples together with stronger bonds of unity, should be abandoned; and which are founded upon the example of Christ and the Saints, who did not hesitate to lay down their lives for the spiritual salvation of men. Therefore, we urge you all, that you not allow yourselves to be deceived by the counsels of pseudo-wise men, but that you persevere firmly in your purpose, and that you take care that there be no schisms among you; but that you all be made perfect in the same understanding and in the same judgment. May the God of peace and charity grant you His grace, and may He restore and strengthen your concord and unanimity for His glory, for the growth of the Church, and for the true benefit of the faithful. And may the favor of His blessing be with you, which, as a witness of our paternal benevolence, we impart to each of you, beloved sons, and to all those under your care, to the Catholic association. Given in Rome, near St. Peter, on the 29th day of January, in the year 1877, in the thirty-first year of our pontificate. PIUS PP. IX.

[*Latin ed. p. 584*]

FROM THE HOLY CONGREGATION CONCERNING THE MISSAL. August 5, 1876. Summary of the case. From the report on the state of the Church Province transmitted to the Holy Congregation, the following is noted under the heading of Requests: "In the Cathedral and in the Collegiate Church, the Mass of the Feria in the Quadragesima [Lent], in the Four Times [of the Divine Office], and on Vigils, is not sung, but one of

Translated by churchlatin.ai, a product of Boyne Archives

the Canons celebrates it entirely without the participation of the others. The question is asked whether this practice is permissible, given the small number of Canons?"

SYNOPTIC DISCUSSION. OBSERVATIONS FROM OFFICE. The rubrics of the Missal prescribe that in the Feria of the Quadragesima [Lent], and in other times of the year, if a feast occurs, two Masses should be celebrated in Cathedrals and Collegiate Churches: one of the Feast after Terce, and another of the Feria after None. This is found in title 1, sections 1 and 2, of the Missal. Furthermore, the rubrics approved and confirmed by Pope Pius V in the Constitution "Quo primum," and which, after having gradually fallen into disuse due to contrary custom, were restored to their original observance by the Constitution "Si quid est" of Urban VIII, are to be observed. In particular, Pope Benedict XIV, in the Encyclical "Cum semper oblatas," reviewed and ordered that these Masses be observed. It cannot be doubted that these conventual Masses, namely, those of the Feast, and of the Feria and Vigil, are to be celebrated with singing. Indeed, the rubrics of the Missal, in title 15...

[*Latin ed. p. 585*]

Missae Conventualis 585 § 2, establishing the order in which the conventual Mass and the daily Mass should be said, also asserts that the Mass for the day and the Vesperal Mass should be sung. Thus, it is written there: "In Advent, in Lent, four times, and also during the Octave of Pentecost, and on Vigils, which are days of fasting, although they are solemn days, the Mass of the day should be sung, even at None." This is confirmed by the Holy Office of Rites in Rome, in the "Praeeminentiae super dubiis," August 5, 1737, where, in response to the second question, "Whether, according to the prescribed rubrics for celebrating and singing in the cathedral church, if several Masses are to be celebrated, it is permissible to celebrate one of them silently in any case," the answer was: "No." Therefore, since this celebration with singing is required by the general law, it must be observed everywhere, and nothing to the contrary can be decreed by synodal constitutions; for it is forbidden in diocesan synods to enact laws that are contrary to pontifical constitutions and the general discipline of the Church. Nor can custom have force against the rubrics of the Missal. Indeed, the Holy Office of Rites, when renewing other decrees, has commanded that the rubrics of the Roman Missal be observed in all places and at all times, notwithstanding any pretext and contrary custom, as Fagnanus states in chapter "De celebratione Missarum," number 29. Therefore, the practice that has prevailed in the past should be entirely rejected. However, it can be observed that if another Mass is to be celebrated, the Sacred Canons do not consider it necessary to sing it. Indeed, Benedict XIV, who in the aforementioned Constitution "Cum semper oblatas" addressed all the questions to be considered, when he spoke of the second and third conventual Masses

Translated by churchlatin.ai, a product of Boyne Archives

to be offered on certain days, did not order that they be sung, but only that the two and three conventual Masses, according to the rubrics, should be...

[*Latin ed. p. 586*]

586 From the Sacred Congregation of Councils, where it is found to be customary, they are to be celebrated, and applied to Beneficiaries in general. Hence it happens that the Sacred Congregation of Rites, especially considering the small number of Canons, sometimes accustoms itself to dispense from the singing of another Mass. This is evident in Orte on July 5, 1631, where the Bishop states: "The Canons of Civita Castellana and Orte excused themselves from the obligation of singing two Masses when, on certain days of the year, such as Vigils, times of Lent, the Four Seasons, Rogations, or something similar that is privileged, due to the lack of the aforementioned Cathedral Canons, requested that they be excused from singing both Masses on those privileged days." The Sacred Congregation of Rites, having heard the account, decided to grant permission, that the sung conventual Mass for the feast day be celebrated, and that the other Mass be recited without singing, with the participation of all the Canons. And the Sacred Congregation of Councils, in Rome, on September 28, 1771, regarding the question: "Is it permissible to sing only one conventual Mass on certain days of the year, except for the days of anniversaries and deaths of the deceased, and also except for the feasts of Lent, in which the office of some Saint coincides?", gave the response: "No, and according to the intention, it is understood that one Mass is sung, and the remaining conventual Masses are read, except for the days as stated in the question." Similarly, in Derthonen on September 12, 1829, and in Fermo, in the Conventual Mass of June 7, 1845, in which the last [item] regarding the question: "Should the prayers of the Chapter be recited by the Orator in this case?" was answered: "Affirmatively, for the sake of the celebration of the Mass without singing in the Choir, provided the Chapter is present, but not when the Canonical Hours are celebrated, with the spoken word with the Most Holy." However, the Sacred Congregation of Councils, in Aretina in the year 1914, considering especially the custom, declared the Canons to be exempt.

[*Latin ed. p. 587*]

The Conventual Mass, number 587, of the Church of Arezzo, although it is the Cathedral, is subject to the obligation of attendance for those who are bound to attend such Masses on weekdays or vigils, due to a doubtful proposition: "Whether the Canons of the Cathedral of Arezzo are exempt from attending Masses on weekdays as prescribed by the Rubric after the conventual Mass in the case in question." It was answered: "In the case in question, it is not to be compelled." The reason was that in the decree of the Apostolic Visitation of the Diocese of Arezzo, issued in the year 1583 by the Bishop of Sarsina, Angelo Peruzzi, no mention was made of the second

Translated by churchlatin.ai, a product of Boyne Archives

and third Masses, but only of the Mass Major, and that, according to a two-hundred-year-old custom, it was established that the Canons should not attend these Masses. Therefore, from all of this, it follows that the custom can be maintained, especially since the number of Canons is small, as the Bishop indicated. However, if the small number of Canons can be a reason why it seems permissible to dispense with the singing of the Mass on weekdays and vigils, one might doubt whether it should also be celebrated without the attendance of the Canons. For from several decisions of the Sacred Congregation of Councils, it is clear that although a dispensation has been granted from the celebration of Mass with singing, rarely have the Canons been dispensed from the obligation of attending Mass.

RESOLUTION. After considering these matters, the Sacred Congregation responded on August 5, 1876: "For the sake of expediency; and considering the circumstances, the Masses in question can be celebrated without singing, but with the attendance of the Chapter."

[*Latin ed. p. 588*]

588 From the SACRED CONGREGATION'S DECREE. CONCERNING THE REMOVABILITY OF CATHEDRAL VICARS. Dated August 5, 1876. Summary of the case. The Most Reverend Archbishop P. reported to the Congregation regarding the state of his Church: "Most Illustrious Father, Archbishop Angelus F. P., in the year 1783, observing with great sorrow that the pastoral care of the Primatial Church's Chapter was not perpetually entrusted to true and proper pastors, but was exercised by mercenary men with a meager salary, wishing to remedy this evil, presented the matter to the Most Holy Lord, and requested, for the endowment of two vicars to be established in that parish, the suppression of the vacant canonical prebend of De Salmolis, whose patronage belonged to the House of Mercy of this city. And because he had offered prayers to the interested parties, that is, the Patron and the civil government, who were willing to grant what was requested, he obtained, by virtue of a rescript of August 6 of the same year, the authority to proceed. With these things as a prerequisite, exercising his ordinary authority and in virtue of the faculty granted by the Seventh Session, Chapter 7, concerning reforming bishops, of the Holy Council of Trent, he decreed that the exercise of the pastoral care of the Cathedral Chapter be entirely relinquished and separated, and at the same time, he declared the establishment of one perpetual vicar, to be held and administered by two secular priests with full and absolute parochial jurisdiction, for whose support he assigned the revenues of the suppressed canonical prebend, under the title and name of endowment, and other revenues called "incerti." But because this decree was amended by another subsequent decree of the same Archbishop, issued on January

Translated by churchlatin.ai, a product of Boyne Archives

28, 1788, in certain respects...

[*Latin ed. p. 589*]

The regulation concerning the removability of the Cathedral Vicars had been in effect. The Most Reverend Alliata, immediately succeeding his predecessor, solemnly declared on September 14, 1816, for the future observance of the first decree of the Archbishop of 1873, so that the care of souls, as regards habit, would remain with the Chapter, and as regards the exercise [of ministry], with two perpetual Vicars, endowed with all and full parochial jurisdiction, named by the Chapter and appointed by the Archbishop after a prior examination; adding these two things, namely, that the Archpriest would simply have the duty of overseeing, as the first dignity of the Chapter, that everything be done in order by the Vicars; and, in addition to the endowment for the support of the two Vicars, as mentioned above, he added the revenues of the suppressed parish of Saint Euphrasia; and thus the established order remained until the year 1865. On April 25, 1865, the Canons, canonically assembled in chapter, observed that, according to the aforementioned decrees, the burden of civil authority had been imposed upon them, rather than the faithful execution of ecclesiastical law (as they themselves believed), and, citing the causes arising from controversies between the two perpetual Vicars, who solidly held the care of souls of the Primatial Church with all jurisdiction, they decreed to return to the former rights, as if no Archdiocesan Decree had been issued in this matter, so that, in the future, the Vicars of the Primatial Parish Church, with the endowment assigned to them for their support, would be removable at the will of the Chapter. And, in truth, according to what they decreed, so they did the two Vicars who held the care of souls at that time; they obtained a delegation in the form of an institution from the Most Reverend Aloysius delia Fanteria, who, although at that time joined to the office of General Vicar, declared in that document and protested that he chose and appointed them as Vicars, so that the Archpriest and the first dignity, and with the authority granted to him by the Chapter, would not act otherwise, nor under any other title; and although in...

[*Latin ed. p. 590*]

590 From the Holy General Council (the aforementioned script concerning the removability, as expressed in the aforementioned chapter, pertains to removals at the will [of the superiors], and this by virtue of the deliberation of the Chapter of the year 1865). What is evident in the course of this discussion is the absolute absence of any decree, either from the Archbishop of [Cagli], or abrogating the prior decrees of his predecessors, or confirming the deliberation of the Chapter of the year 1865. No such decree exists, neither in the Archiepiscopal Curia, nor in the Chapter Archive. Having laid bare the facts for the sake of truth, the modern Archbishop

Translated by churchlatin.ai, a product of Boyne Archives

demands only one thing: that he may acquiesce and remain silent. A synoptic discussion. THOSE THINGS WHICH SEEM TO CONTRADICT THE CHAPTER. The system devised by the Canons is deemed inadmissible, based on the reasoning of the Supreme Pontiffs, the practice of the Holy General Council, the doctrine of the Canonists, and indeed, reason itself. For the Tridentine Council, in chapter 13, session 21, decrees: for the safer salvation of the souls entrusted to them, that bishops assign to each a perpetual and particular parish, so that they may know them, and from whom alone they may lawfully receive the sacraments. To facilitate this disposition, Pope Pius V, by his Constitution *Etsi omnibus*, of November 5, 1571, erected perpetual vicariates in the venerable city, in the basilicas and collegiate churches, for the greater increase of divine worship and the benefit of souls. Since the schedule of said papal decree, signed by the Holy Father himself, provided an opportunity, a not insignificant controversy arose between the Vatican Chapter on the one hand, and the Vicarious Curate on the other; the Holy Congregation resolved in the year 1662 that the habitual care of the Basilica of the Vatican should reside with the Chapter, while the exercise [of that care] should belong to the Vicarious Curate thereof.

[*Latin ed. p. 591*]

The matter concerning the perpetuity of Vicars of Cathedrals pertains to the Basilica. The same was done by subsequent Supreme Pontiffs; and especially by Benedict XIII. And the Sacred Congregation of Councils has frequently confirmed this doctrine; indeed, in a decree addressed to the Bishop of Monti Masini on January 25, 1726, it ordered that in the mother church and parish of Peschii Constantii, whose care was exercised cumulatively by the priests of the same church, a perpetual parish priest be appointed, to be chosen with the prior agreement of the chapter. In Farmen, on July 7, 1731, it ordered the execution of the letters of the Sacred Congregation of May 5, 1646, which were given to the Bishop with these words: "Regarding the care of souls in the cathedral church, the Holy Fathers do not approve that it vaguely be entrusted to the chapter, but they order that someone be added from a certain benefice, with the advice of the chapter, and that a perpetual Vicar be established there, so that the people subject to it may recognize a certain pastor. Furthermore, it was decreed in Castrimaris by the Summarium precum of December 17, 1825, for the exercise of the care of souls. And, omitting others, the same was decreed in Novarien, regarding the care of souls on June 5, 1746, for the collegiate church of Intra, in which the care was then exercised alternately by the canons. Similarly, they act in accordance with what is widely taught by canonists. Among these, for the sake of brevity, let us mention Fagnanus, who in Chapter VI, from the part on the Office of Vicars, number 14 and following, shows that it is more beneficial for parochial churches to have perpetual Vicars than temporary ones; and it is fitting that the Apostolic

Translated by churchlatin.ai, a product of Boyne Archives

See decree that Chapters of cathedral and collegiate churches, which have the care of souls, and exercise it through temporary Vicars, be compelled to appoint perpetual Vicars who will be in charge of that care. Experience, which is the most effective teacher of things, has shown in these cathedrals and colleges, in which there is a common care of souls, regarding the nomination and appointment of temporary Vicars: 1.° That discord and contention arise among the canons themselves, since each of them seeks to nominate a Vicar for his own advantage.

[*Latin ed. p. 592*]

592 From the Sacred Congregation, the reason is often not the benefit of the Church, but rather the will of the Council. 2.° Temporary vicars, who are usually appointed by the aforementioned Chapters, are often removable at the will of those who appointed them, and are frequently removed without cause, due to private affections. 3.° Those who are removable do not love the Church, nor do they diligently care for the flock. 4.° Due to frequent changes, or the fear of removal, or the inadequacy of the stipend, it is difficult to find vicars who possess the qualities required to exercise the care of souls. This system, therefore, is condemned by the same Canons, because the Council of Trent demanded permanent vicars so that they might better know their flock, while the parish priests are pastors. Furthermore, since, according to canon 9, distinct. 99, they are also fathers, it is fitting that they should not be permanent. *Glossum* in d. cap. un. de vic. perpet. de Capell. Monach. Finally, just as a carnal marriage is not contracted for a time, canon fin. de cond. oppos.; canon solet. 32 q. 2, so neither is a spiritual one; *Glossum* in d. cap. un. d. v. perpet. Therefore, Barbosa, in *De officio et potestate Parochorum*, part i, chapter 1, numbers 43 and 44, rightly states: "Just as one woman cannot have two or more husbands... nor can one body have two heads, because that would be a monstrosity; so neither can the Church have two or more parish priests or curators, and in one Church there must be one priest, husband, and director who has charge." Nor does any custom to the contrary seem to be able to outweigh this legal judgment regarding removability, as is stated after Gonzalez in the *Regulae Cancellariorum*, *glossum* 5,15, number 60, where the Rota in Trent declared on November 29, 1482, before Bianchetto; and Corrad. *Practica Beneficiorum*, book 3, number 6, infers from the words of session 7, chapter 7, de ref.: "The same Council derogates from the privilege of appointing a temporary vicar, or one who is removable at will; nay, it even derogates from the memorable custom of being served by temporary, or removable, vicars."

[*Latin ed. p. 593*]

The proposition concerning the removability of Vicars of the Cathedral, number 593, which has already been declared by the Sacred Congregation

Translated by churchlatin.ai, a product of Boyne Archives

of the same Council, which states thus: "By this decree, the ancient custom is abolished, so that in those benefices united, service is performed by removable chaplains, unless it seems otherwise to the Bishop." Therefore, the resolution of the Chapter has no validity, both because it is not conducive to the care of souls, and because it has never been approved by the Ordinary. Such an approval would have been of great necessity, as is evident from the fact that the Archbishop Angelus E. in the year 1783 did not establish a method of immovability by his own authority, but rather decreed it with the permission granted to him by the Most Holy Pope Pius VI, for the purpose of avoiding a mercenary pastor.

WHAT THE CHAPTER ALLEGED. The Chapter asserted that a perpetual Vicar Curate could not hold a place in the Church of P.: because, from the original erection of the Chapter, or college, the care of souls flowed. Indeed, in this case, it is understood that a removable Vicar must be present, as is clearly stated in Trid. Sess. 25, cap. 16, concerning reforms: "The Holy Synod decrees that ecclesiastical benefices of a secular nature, whatever they may be called, which retain the care of souls from their original institution, or in any other way, shall not be converted into simple benefices, even if assigned to a perpetual Vicar, unless they have received graces that have not fully taken effect." To this disposition, the consensus of canonists is added; among whom Ventriglia, in *Practica rerum notabilium*, notes on page 1, annotation 20, § 3, number 4, explains the matter: "When the care of souls pertains to a chapter, college, benefice, or other pious institution, not through the means of union, but from the original erection, or in another way, a perpetual Vicar could not be appointed, because it would not be in accordance with the intention of the chapter *Extirpandae* and the Council of Trent, and the constitution of St. Pius V, which also speaks in terms of unions; indeed, in the *Acta*, volume IX, page CVIII, number 38."

[*Latin ed. p. 594*]

594. From the Sacred Congregation, it would be expressly contrary to the disposition of the same Council, chapter 16, session 25, concerning reform, where it is forbidden to convert a benefice with a cure of souls into a simple benefice. Furthermore, the Sacred Congregation agrees with the Council in Camerino on January 26, 1726; Assisi on November 16, 1706, and Aliphana on January 12, 1726, in response to two doubts, because the cure of souls is derived from the college from which it flows and is maintained, according to Lotter, *De re benef.*, book 1, question 33, number 7.

Then, the Chapter argues that the ancient institution of the care of souls threatens it, and that it is endowed with ordinary authority, as it appears from the Bull of Nicholas II. For in this case, the Canons are considered as Ordinaries and are established under the immediate authority of the Apostolic See. It is known that this ordinary jurisdiction has been confirmed by various documents of the Supreme Pontiffs over time. To provide an

Translated by churchlatin.ai, a product of Boyne Archives

example of such ordinary authority, the Chapter states that it has the right to establish the benefices, chapels, and offices of the Primatial Church; it also has the right to establish many parochial churches; therefore, it has the right to perform the sacred visitation of the diocese together with the Ordinary; and other similar things, which are proper to Ordinaries.

Furthermore, the aforementioned Chapter not only has the right to institute, but also, from ancient times, has the right to dismiss, with regard to all officials of the Church, among whom are included two chaplains who administer the care of the parish and baptize; all of whom are chosen and appointed, recalled and dismissed at will by the Chapter and the Canons. Therefore, the institution of the Chapter itself is also one that can be authorized, by which power is granted to exercise the care of souls, as is given by Barbosa, *De offic.* and *potest. Episcop.*, page 3, paragraph 72, number 184.

With these things established, the Chapter concludes that the act of its ordinary power should also be included, namely, the act by which it appoints each year two removable priests who administer the care of souls and act in its place.

[*Latin ed. p. 595*]

Regarding the immovability of Cathedral Vicars: 595. Nor has any Ordinary ever raised a question or objection against this manner of acting. From this silence, it is easily demonstrated that the interpretation of the Bulls of the Supreme Pontiffs was correct. To this interpretation, which is presumed to be correct, must be added an ancient and venerable custom; a custom which derives its value from being a true and legitimate title. On this matter, the following is cited from Cardinal De Luca, *lib. 15, disc. 21 de Iudiciis*, n. 50: "For all dominions, and goods, or rights, which have been possessed for a very long time, from the most ancient and venerable times, undoubtedly presuppose some principle." From this, it follows, the Chapter states, that an ancient custom provides security, not only in the interpretative and presumptive sense, but also in the prescriptive sense. The same Chapter also noted that its own proper right was not altered by decrees issued by the Ordinary, Angelo F., in the year 1783: by which decrees, it was indeed established that the exercise of the care of souls should remain entirely separate and distinct from the Canons and Chapter of that Church. For such decrees lack all validity, if they have been issued by force and fear of the civil government, as can be gathered from the letter of the Most Illustrious Lord from the Royal Legal Secretariat, in which the Ordinary was ordered to suppress the aforementioned Canonry, and to make two Vicars immovable for the good of souls. However, it is established in law that if the mere authority of a ruler does not always inspire the reverential fear suitable for obtaining free consent, but when that authority is joined with power, it is sufficient to exert force, so that the other may be

Translated by churchlatin.ai, a product of Boyne Archives

considered to have given consent under necessity, as Ulpian states in *lib. 6 ad Sabinam, leg. 4 ff. de Regul. Iur.*: "It is not believed that one who obeys the command of a father, or a lord, is acting unwillingly. Thus, it must be considered of one who obeys the will of a prince or a powerful person." See also *Decretalium, tit. de his quae vi metus que causa*, cap. 4. Cardinal De Luca, *de Legitimit*, disc. 23, n. 3 and 4.

[*Latin ed. p. 596*]

596 From the Sacred Congregation, it is stated that the Council of Trent did not decree, as some claim, that certain decrees were issued according to the disposition of Trent, and therefore do not have their full force; for the Council of Trent, in Session 7, Chapter 7, concerning reform, grants to Ordinaries the faculty of consulting, in the best way possible, for the service of the Church, regarding monasteries, collegiate churches, and cathedrals, through suitable vicars, even perpetual ones. However, it is clear, that under the name of Ordinary, not only the Diocesan Bishop, but also a Prelate or Chapter who possesses ordinary authority in that Church, is included, as is verified in the case of the Chapter of P. For it has always created and instituted two removable vicars, who perform the duties of that Chapter; therefore, it pertains to them, and not to the Archbishop, to decide any variation concerning those same vicars. The decision to restore the system of removability is in the good right of the Chapter, and is consonant with the ancient ecclesiastical law, as can be seen from Gloss. Clement, frequently, verse "ad mensam, de excess. Praelat. Geminian. cons. 86, n. 3." Furthermore, such a decision does not contradict the Council of Trent, as is evident from Session 7, Chapter 7; for there it is prescribed that, according to the utility of the Church, either removable or perpetual pastors should be appointed. Moreover, it is added that the Council of Trent, in Session 24, Chapter 13, concerning reform, does not demand that a perpetual pastor be assigned to each parish. For this can be maintained in the Church of P.; provided that it is understood that parishes united to cathedrals or collegiate churches are subject to the entire jurisdiction of the Chapter, represented by a single Rector, as is stated by Corrad. prax. benef. lib. 2, cap. 2, n. 51; Gonzalez, commentary on the regulations of the Council, gloss. 7, n. 71; Barbos, on the office and power of the pastor, part 1, cap. 1, n. 44; and the Rota cor. Puteo, decision 290. To these must be added the authority of the Supreme Pontiff Benedict XIV, who in the Constitution "Cum semper oblatas" § 10, without.

[*Latin ed. p. 597*]

The decree concerning the removability of the Cathedral Vicars, dated 597, makes mention, without distinction, of both permanent and removable Vicars of souls. Indeed, the Chapter states that its decision is in accordance with the decrees of the Council of Trent, namely, session 25, chapter

Translated by churchlatin.ai, a product of Boyne Archives

16, concerning reform, which states: "When, through resignation or death of the Vicar or Rector, or in any other way, one of these offices becomes vacant, the other shall receive the charge of souls, and the title of Vicar shall cease, and the [office] shall return to its former state." Both of these circumstances occurred in the Church of P. in the year 1865, when the Chapter issued the aforementioned decree, in order to defend its rights and to better serve the good of the Church through removable Vicars. For these Vicars, fearing expulsion, serve the Church with greater diligence, and diligently attend to the care of souls: Barbosa de iure Eccles., book 3, chapter 6, paragraph 65; and Eota cor. Coccin., decree 18, number 13. Finally, the Chapter concluded that the objection, which argues that the Chapter's resolution is invalid because it does not appear to be supported by the authority of the Archbishop, is unfounded, since the Chapter itself has possessed this authority from time immemorial. In light of these considerations, the following question was raised: "Is it permissible, and in what manner, to establish the care of souls in the RESOLUTION?" The Sacred Congregation, after careful consideration and discussion, on August 5, 1876, responded: "Affirmatively, through a permanent Vicar, and one assistant dependent on the Vicar himself, so be it."

[*Latin ed. p. 598*]

598. Appendix to the Causes of the Sacred Council.

I. It can be deduced from this that vicars ought not to be temporary, but perpetual, or else it can be inferred that vicars are pastors; indeed, a permanent pastor knows his flock better than a temporary pastor.

II. Therefore, it seems advisable for the Canons to urge that the Holy See decree that the Chapters of Cathedrals and Collegiate churches should be obliged to appoint permanent vicars, so that, through temporary vicars, they may exercise the care of souls.

III. The practice of the Sacred Council has been such that Chapters of Cathedrals or Collegiate churches, to which the care of souls belongs, are obliged to exercise that care through permanent vicars.

APPENDIX: Concerning the Institution of a Permanent Vicar in Parishes which are united to Chapters.

From the Glossary on chapter "Ex parte," under the words "perpetuos," concerning the office of a vicar, a permanent parochial vicar is said to be that one who, by the authority of the Bishop, is canonically instituted to serve a certain church, in the place of the principal rector, with the assignment of a suitable portion of the fruits which he ought to receive from it. A temporary or removable vicar, on the other hand, is that one who, by the legitimate authority of a superior, is sufficient to perform ecclesiastical service in the place of another, for a time or at the will of the one who appoints him.

Translated by churchlatin.ai, a product of Boyne Archives

A learned dissertation on this subject, prepared by A. Fagnano, seemed to me to require some preliminary remarks. For it has often been debated among the Canons whether the Bishop of *scopi* has the faculty, at his pleasure, of making temporary vicars permanent in parishes which are united to Chapters.

Moreover, it should not be omitted that parishes are found united to Chapters in two ways. *Cfr.* the deductions made, page 208, Volume of this work, in a question almost similar to this, with a few exceptions. And see the following Appendix III on this subject.

[*Latin ed. p. 599*]

Regarding the immovability of Cathedral Vicars, it is possible, firstly, in the primary and original sense, and secondly, through a union which is considered accessory. From these considerations, whether the parish churches are united with the Chapters in the first or second manner, the opinion has prevailed that Bishops can generally compel such Chapters to appoint temporary Vicars, so that the pastoral care is not exercised in a confused and vague manner, without a designated pastor. However, if a parish church is found to be united with a certain Chapter, namely through a subjective union, or primarily and through its original institution, then the Bishop cannot establish a permanent Vicar where a temporary Vicar has already been appointed. This is confirmed by the authority of the Sacred Rota, in the decision *Molines*, number 1082, paragraphs 27 and 28, where it is stated: "Indeed, after the Council of Trent, the care of souls can be exercised by Vicars who are removable at will, so that neither does the Bishop himself obtain the power to make removable Vicars permanent, unless there is a just cause for it, according to the mind of the Sacred Council." For in this case, the Chapters have the parish churches subject to them fully and legitimately; the rights of the parish belong to the Chapters, and not to the Bishop. And the same Chapters, in whose hands the care of souls resides, could appoint suitable temporary Vicars at their discretion. Therefore, if a Bishop were to establish a permanent Vicar in a parish united subjectively and fully to a Chapter, the Chapter would thereby be deprived of its rights and office as a parish; and it would cease to be a true parish, but a permanent Vicar would be established, although lacking the title. Hence, as Barbosa states in book 3 of *Jura Ecclesiae Universalis*, chapter 6, paragraph 7, if such a union has existed since ancient times, and it can also be shown that Vicars have been removable at the will of the Ordinaries from that time, without any legitimate cause for change, nothing can be changed. Indeed, Chrysostom warns, "nothing more disturbs the mind than novelty." And to avoid change, regarding the exercise of the care of souls, the Sacred Rota, in the decision *Ansaldo* in the Aretine Jurisprudence on Parishes, dated January 16, 1703, § states: "It is more prudent to adhere to established custom than to introduce a new rule that

Translated by churchlatin.ai, a product of Boyne Archives

causes division among the people." And in decision 212, paragraphs 3 and 4, part 17, it is observed: "It is too harsh to change what has been preserved for a long time." Canonists also express an opinion consistent with this doctrine; all affirm that in such churches, another appointment of a Vicar cannot occur than one that is removable and temporary. For he is not said to administer according to his own right, but according to the right and name of another.

[*Latin ed. p. 600*]

600. Appendix to the causes before the Sacred Congregation, namely, concerning the canons, or collegiate body, since the right of the parish belongs to each of them individually, and another is not the rector, except for the Chapter, and the canons in general, as Lotter observes in *De Re Benefic.*, Book 1, question 20, number 114 and following. "Regarding the subject of care, or the parish, it must first be noted, in relation to this controversy, that the right of the parish, or the cure, is one thing, and the exercise of that right is quite another. For the right of the parish is an individual thing, as the Rota states in *D. Coccin.*, Decisions, 81, number 1. Indeed, it pertains to jurisdiction, which is a thing individual; and for this reason, it is impossible for it to remain divided among many. The exercise, on the other hand, is entirely individual. Therefore, since it is assumed that there are several ministers of the cure in one church, it cannot be understood that the right of the parish, or the cure, is divided among them, but only the exercise, which is of an individual nature; but nothing prevents each of them from possessing the right of the parish in its entirety. When, however, parishes are united to Chapters in the second manner, namely, by an accessory union, then the opinion prevails that the Bishops can compel the Chapters to elect and appoint perpetual vicars. For such an accessory union does not, by itself, cause the Chapter, as such, to be a true parish, and to have an immediate office for souls. But it does require the Chapter to fulfill the obligations that are connected with the parish, which is accessory united to it. Furthermore, if a perpetual vicar were appointed in addition, the Chapter would suffer very little damage to its own rights. And with regard to the care of souls, it would be in the same situation as before; since it is entitled to the name of parson, because it possesses the parish as a temporal thing, to which the office of the care of souls is attached. With these things stated, we gladly refer to the dissertation, of which we have spoken. The most learned Fagnan, having established that, in conformity with the opinions of all canonists, the canons, after examining the disposition of common law, cannot be compelled to appoint perpetual vicars, proposed to himself the task of clarifying the question. Whether it is advisable for the Apostolic See to decree that, in the future, such perpetual vicars should be established in the aforementioned churches. And with regard to this part, he said that it seems to him that it should be answered that it is

Translated by churchlatin.ai, a product of Boyne Archives

very advisable that the Most Holy See should decree that, in the future, perpetual vicars should be established in the aforementioned churches: which is suggested by the following reasons. First, because when benefices are held in cathedral or collegiate churches, the care of souls is not in the hands of individuals in particular.

[*Latin ed. p. 601*]

Regarding the immovability of Cathedral Vicars, 601, it is rather the responsibility of the college, or Chapter. But the Chapter, which resides where the care of souls is exercised, although it may be said to represent the persons of the living members of that same Chapter, is nevertheless not a true person, but a fictitious and representative entity, and lacking a soul; and thus, the parish does not have a certain and particular pastor who exercises the care of souls. For when something is common to many, so that none of the members can say: "This is mine," then everything that belongs to many, belongs to them according to what is common to them, and not according to what is proper to them, and thus it appears unsuitable that in such churches there should not be one and certain rector, or perpetual Vicar, to whom the care of souls is entrusted, cap. Sicut 21 quaest. 2. "As (he says) in each church there must be one priest, so also that which is called the bride or wife of that priest, cannot be divided into many priests, but will have only one priest who will rule her chastely and sincerely." Secondly, it is advised because, as Aristotle says, *Politics*, book 2, chapter 2, that things which are common are often neglected and not properly cared for, and as it is said in the *Corpus Juris Civilis*, *Digestiones*, book 10: "It is a natural vice to neglect that which is commonly possessed, and to consider oneself to have nothing, when one does not have everything." Thirdly, it is advised because experience, which is a more effective teacher of things, and a legitimate proof of truth, has shown that in these Cathedral and Collegiate churches, in which the care of souls is common, frequent discord and contention arise among the Chapter members regarding the nomination and appointment of temporary Vicars, since each of them seeks to nominate a Vicar according to his own will, and often not with zeal for the benefit of the Church. Fourthly, because the temporary Vicars, who are often nominated by these Chapters, are removable at the will of the Chapters, and are often removed without cause due to private affections. And this frequent change of ministers is very harmful to the churches. Fifthly, because even from the part of the mercenaries themselves, changes are not infrequently made: for since they are not formally appointed in the churches, they immediately leave if offered a higher salary, and therefore they do not love the church, nor do they diligently care for the flock. Sixthly, because due to the frequency of changes, or due to the danger of removal, or due to the inadequacy of the salary, or some similar reason, it is rarely possible to find Vicars who possess the qualities required to exercise the

Translated by churchlatin.ai, a product of Boyne Archives

care of souls, as experience teaches. How harmful this is to the ecclesiastical authorities and to the flock is evident from the decree *Grave*.

[*Latin ed. p. 602*]

602 Appendix to the reasons of the Most Holy Council, etc. Therefore, Dionysius the Carthusian, in book 1, on the life and governance of Bishops, chapter 34: "Indeed, when the Bishop sins by entrusting secular and civil duties to those who are insufficient, imprudent, and unjust, he sins much, and almost incomparably more, by appointing such individuals to the pastoral office and the care of souls, who are not suitable for the execution of such duties in terms of knowledge, morals, virtues, and age; similarly, if he dispenses and permits that insufficient individuals be appointed as Vicars and Pastors." It is advised seventhly, that even if such temporary Vicars were not frequently changed, nor did they abandon the care of the churches, and were endowed with the required qualities; it cannot be denied that they are mercenaries, of whom John 10 says: "The good shepherd giveth his life for his sheep: but the hireling, and he that is not the shepherd, whose own the sheep are not, seeth the wolf coming, and leaveth the sheep and flieth: and the wolf casteth and scattereth the sheep." For the hireling flieth, because he is a hireling, and he hath no care for the sheep. Therefore, Rebuffus, in the practice of benefices, title on dispensation, on non-recurrence, numbers 57 and 68, says: "The Divine worship is diminished by mercenaries, who do not serve, and for whom there is no care for the sheep, as the Gospel teaches; and the text in chapter Ex parte, of Constitutions, so teaches." And Alphonsus of Castrum writes in book 1, against all heresies, chapter 13, that this has also been the principal cause of heresies. It is advised eighthly, that perpetual Vicars, to whom the entire care of souls has been transferred, are said to truly hold the title of Parish Church; and the care of souls is not only in practice but also in habit; and although they are not properly called Rectors of Churches, they are truly Rectors of the care of souls, and it is their duty by virtue of their office to pasture the flock entrusted to them; since they are substituted with a canonical title, they are bound in the care of souls to all those things to which Rectors are bound. Therefore, the opinion of the Gloss, penultimate in chapter Ad haec supra, that perpetual Vicars do not have a title, but rather commend the Church, does not seem true, because, indeed, they do have a true title in that church, as the Abbot and Vitalinus, in Clementine, caeterum, number 3, on burials, Rome, constitution 306, number 5, and others, teach extensively.

[*Latin ed. p. 603*]

FROM THE SACRED CONGREGATION OF THE INDEX, DECREE. Thursday, December 22, 1876. The Sacred Congregation of Eminent and Reverend Cardinals of the Holy Roman Church, to the Most Holy Lord Pope Pius IX and the Holy Apostolic See, having considered the

Translated by churchlatin.ai, a product of Boyne Archives

books of pernicious doctrine, and their condemnation, proscription, expurgation, and permission throughout the Christian Republic, in the Apostolic Palace at the Vatican on December 22, 1876, condemned and condemns, proscribes and proscribes, and orders that the following works be referred to the Index of Prohibited Books: Larroque, Patrice. *De la création d'un Code de droit international et de l'institution d'un haut Tribunal juge souverain des différends internationaux.* — Paris, 1875. Spaventa, Bertrando. *Opera omnia Philosophica. Vera A. prof. Opera omnia.* In whatever language. *Storia della Chiesa per un vecchio cattolico italiano* (Luigi Anelli), Volume 2. — Milan, Fratelli Trêves editori, 1875. This work is condemned according to Rule II, Index of the Council of Trent. *Katholisches Rituale herausgegeben nach den Beschlüssen der beiden ersten Synode der Altkatholiken des Deutschen Reiches.* — In Latin: *Rituale catholicum editum iuxta decisiones duarum primarum Synodorum veterum-catholicorum imperii germanici.* — Bonn, 1875. This booklet is condemned according to Rule II, Index of the Council of Trent. Decree of the Sacred Office, December 6, 1876. *Katholischer Katechismus herausgegeben im Auftrage der altkatholischen Synode.* — In Latin: *Catechismus*.

[*Latin ed. p. 604*]

604 From the Index of Prohibited Books, Catholic edition, published by order of the Synod of Bonn, 1875. This booklet is preceded by the decrees of the Council of Trent. Also: *Leitfaden für katholischen Religionsunterricht an höhern Schulen*, published by order of the Old Catholic Synod. In Latin: *Directorium pro institutione religionis catholicae in scholis superioribus*, published by order of the Old Catholic Synod. Bonn, 1875. This booklet is preceded by the decrees of the Council of Trent. Also: *Manuale dei Confessori*, with a preface and translation by Osvaldo Gnocchi-Viani. Rome, Francesco Capaecini publisher, 1877. Decree of the Sacred Office, January 17, 1877. Therefore, no one, of whatever rank or condition, may dare to publish, or to read or retain, the aforementioned works, in any place, and in any language, but must deliver them to the local Ordinaries, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books. These matters, having been related to the Most Holy Pope Pius IX by me, the undersigned, His Holiness approved the decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome on January 19, 1877. Anthony Cardinal De LUCA, Prefect. Fr. Jerome Pius Saccheri, Order of Preachers, Sacred Congregation of the Secret. L. S. On January 21, 1877, I, the undersigned, Master of the Curia, testify that the aforementioned decree was affixed and published in the City. Philip

Translated by churchlatin.ai, a product of Boyne Archives

Ossani, Master of the Curia.

[*Latin ed. p. 605*]

DOCUMENTS CONCERNING BIBLICAL SOCIETIES: Instead of appendices, we present a series of Roman documents concerning the so-called Biblical Societies, from their inception to our own times. None of these documents has been published previously. However, some, especially the older ones, are so obscure that they deserve to be brought to light; and all of them, when considered together, will, especially in these days when these same Societies are being both attacked and praised, be of great benefit to the Catholic cause. FIRST DOCUMENT. 1. INNOCENTIUS PP. III. TO ALL THE FAITHFUL, BOTH IN THE CITY OF CATTOLICA AND IN ITS DIOCESE. – CONCERNING THE FACT THAT LAYMEN SHOULD NOT RASHLY JUDGE THE SACRED SCRIPTURES, PRIVATELY GATHER TOGETHER AND DISCOURSE, AND DISREGARD THE PRIESTS AND THE CHURCH. Since, by the command of our apostolic office, we are, according to the Apostle, debtors to both the wise and the foolish, for the salvation of all, we must be concerned, so that we may draw the wicked away from their vices, and encourage the good in virtues: all the more so, when vices are secretly hidden under the guise of virtues, and the angel of Satan transforms himself into an angel of light. Indeed, our Most Reverend Metropolitan Bishop has informed us by his letters* that in the diocese and in the city of Cattolica, a considerable number of laymen and women, driven by a desire for the Scriptures, are reading the Gospels, the Epistles of Paul, the Psalms, the Book of Job, and several other books.

[*Latin ed. p. 606*]

606 Documents concerning biblical societies have been translated into the French language. Such translations are undertaken with such eagerness, that some, indeed, with imprudence, presume to hold secret meetings with laymen and women, and to preach to one another; who also despise the company of those who do not engage in similar activities, and consider those who do not lend their ears and minds to such things to be strangers. When some of these attempted to correct such behavior among certain parish priests, the latter stood firm before them, attempting to offer reasons from Scripture, that such gatherings should not be entirely prohibited. Some of them even find fault with the simplicity of their priests; and when the word of salvation is presented to them through these priests, they murmur in secret that they themselves are better able to understand and express these things in their books. Although the desire to understand the divine Scriptures and to study them according to their meaning is to be commended, it is nevertheless worthy of censure that such secret gatherings are held, that they usurp the office of preaching, that they mock the

Translated by churchlatin.ai, a product of Boyne Archives

simplicity of the priests, and that they despise the company of those who do not participate in such things. For God, who is the true light, which illuminates every man coming into this world, so detests the works of darkness, that He commanded His apostles to be sent into the whole world to preach the Gospel to every creature, openly saying: "What I tell you in darkness, speak in light; and what you hear in the ear, preach upon the house-tops." By this, He manifestly declares that the preaching of the Gospel is to be publicly proclaimed in the churches, according to the Catholic tradition, and not in secret gatherings, as the heretics do. For, according to the testimony of truth, every one who does evil hates the light, and does not come to the light, lest his works be exposed. But he who does what is true comes to the light, that his works may be made manifest, because they are done in God. Therefore, when the Pontiff questioned Jesus about His disciples and His doctrine, He responded: "I..."

[*Latin ed. p. 607*]

"The first point: I have spoken openly to the world; I have always taught in the synagogue and in the temple where all Jews gather, and I have spoken in secret to no one. But if anyone objects, saying that, according to the Lord's precept, dogs should not be admitted, nor pearls cast before swine, since even Christ Himself did not say this to all, but only to the Apostles: 'To you it has been given to know the mystery of the kingdom of God; but to others in parables,' let him understand that the dogs and swine are not those who receive the sacred things willingly and accept pearls with pleasure, but those who tear apart the sacred things and despise pearls, such as those who, as heretics, do not venerate the evangelical words and ecclesiastical sacraments as Catholics do, but rather detest them, always blaspheming; whom the Apostle Paul teaches must be avoided after the first and second warning. The mysteries of the faith are not to be explained to everyone indiscriminately, since they cannot be understood by everyone indiscriminately, but only by those who can comprehend them with faithful understanding. Therefore, the Apostle says to the simpler ones: 'I have given you milk to drink, not solid food, for you were not yet ready to receive it.' For solid food is greater, as He Himself said to others: 'Among the perfect, I speak wisdom, but among you, I do not claim to know anything except Jesus Christ and Christ crucified.' For the depth of the divine Scripture is so great that not only the simple and uneducated, but also the wise and learned, do not fully suffice to investigate its understanding. Therefore, Scripture says: 'For many have failed in searching out its mysteries.' Hence, it was rightly ordained in the divine law that the beast which touched the mountain should be stoned, lest a simple and uneducated person presume to reach the sublimity of the Sacred Scripture or to preach it to others. For it is written: 'Let not your heart inquire into things beyond you'; therefore, the Apostle says, 'Be not wiser than you ought to be, but be wise to sobriety.'

Translated by churchlatin.ai, a product of Boyne Archives

As there are many members in the body, all of which are one body..."

[*Latin ed. p. 608*]

608 Documents concerning biblical societies do not have the same standing, since there are many orders in the Church, but not all have the same office, for according to the Apostle, the Lord has appointed some as apostles, others as prophets, and still others as teachers, etc. Therefore, since the order of teachers is almost preeminent in the Church, no one should presumptuously usurp the office of preaching. For, according to the Apostle, "How shall they preach, if they be not sent?" And the Truth Himself commanded the Apostles: "Pray ye therefore the Lord of the harvest, that he send forth labourers into his harvest." If someone were to respond cleverly, saying that such individuals are invisibly sent by God, even if not visibly sent by a human being, since an invisible mission is far more worthy than a visible one, and the divine mission is far better than a human one, and since John the Baptist is not read to have been sent by a man, but by God, as the Evangelist testifies, because he was a man sent by God, whose name was John, it is certainly necessary to respond beforehand that, since that interior mission is hidden, it is not sufficient for anyone merely to assert that he is sent by God, since any heretic could assert this, but rather, it is necessary to confirm that invisible mission through miracles or through special testimony from Scripture. Therefore, when the Lord wished to send Moysen to Egypt to the sons of Israel, so that they might believe that he was sent by Him, He gave him a sign, that he might turn a rod into a serpent, and again turn the serpent into a rod. John the Baptist also presented special testimony of his mission from Scripture, answering the priests and Levites who had been sent to question him about his identity and why he had assumed the office of baptizing: "He said: I am the voice of one crying in the wilderness, make straight the way of the Lord, as said the prophet Isaias." Therefore, one should not believe him who says that he is sent by God, unless he is not sent by a man, unless he offers special testimony about himself from the Scriptures, or works an evident miracle. For, concerning those who are said to be sent by God, the Evangelist testifies that they went forth and preached everywhere, the Lord working with them, and the word being confirmed.

[*Latin ed. p. 609*]

Document I, 609, confirms the following signs. Although knowledge is very necessary for priests, in order to teach, because, according to the prophetic word, "The lips of the priest shall keep knowledge, and they shall seek the law from his mouth," it is nevertheless not to be taken away from simple priests, even by scholars, since the priestly ministry must be honored in them. Therefore, the Lord commanded in the law: "Do not defraud the gods," understanding by "gods" the priests, who, because

Translated by churchlatin.ai, a product of Boyne Archives

of the excellence of their order and the dignity of their office, are called by the name of gods. As it is said elsewhere, "If the servant will that he may abide with his lord, it is his own will." For, as the Apostle says, "The servant shall please his lord, whether he will or not," he certainly ought to be corrected by the bishop, to whom he is subject, in a spirit of correction; but he ought not to be rebuked by the people, to whom he is subject, in a spirit of pride. For, according to the Lord's precept, "Neither shall the father curse his son, nor the son curse his father," but rather they ought to be honored, which, in the case of a spiritual father, must be understood much more strongly than in the case of a carnal father. And let no one defend his own presumption with the example that is read of the ass rebuking the prophet, or that the Lord said, "Who among you shall accuse me of sin?" and, "If I have spoken evil, bear witness of the evil." For it is one thing to secretly correct a brother who is sinning in himself, which everyone is bound to do according to the rule of the Gospel; and in this case, it may be understood that the ass corrected Balaam. And it is another thing to openly rebuke one's own father, even if he is sinning, and to call him a fool for a simple offense, which, according to the Gospel truth, is not permitted to anyone. For he who says to his brother, "Fool," shall be in danger of hell. Again, it is one thing for a prelate, confident in his own innocence, to voluntarily submit himself to the accusation of others, in which case the aforementioned words of the Lord must be understood; and it is another thing for a subordinate to rise up against a prelate, not so much with the intention of being corrected as of being condemned, when he ought rather to remain in his duty.

[*Latin ed. p. 610*]

610 Documents concerning Biblical Societies, to be observed. If, perchance, necessity demands that a priest be removed from the care of the flock, deemed either useless or unworthy, this must be done in an orderly manner before the bishop, to whose office both the institution and the dismissal of priests are known to pertain. That which proceeds as if from the arrogance of the Pharisees must be detested by all, who, as if they alone are just, despise others; for from the very beginning of the Church, there have been many holy men who were not such, nor adhered to such men, and yet we read of new ones arising who are such. Those who are unwilling to be taught rather than to teach, may perhaps belong to those to whom the Lord said: "Be not more than scribes and Pharisees." Therefore, brothers, because we love you with a paternal affection, we implore your community to be more attentive, warned, and exhorted in the Lord, commanding you for the remission of your sins, that you may turn away from those things which we have above indicated as reprehensible, both in speech and in mind, observing the Catholic faith and the ecclesiastical rule, lest you be deceived by deceitful words, or even deceive yourselves:

Translated by churchlatin.ai, a product of Boyne Archives

for unless you humbly and devoutly receive our correction and paternal admonition, we shall apply oil and wine, and impose ecclesiastical severity, so that those who have refused to obey voluntarily may learn to acquiesce, even unwillingly. Given at the Lateran Palace, on the fourth of the Ides of July, in the year of Our Lord 1199.

2. TO THE BISHOP AND CHAPTER OF METENS, ON THE SAME MATTER. Just as it is incumbent upon the prelates of churches prudently and diligently to seize the small foxes that seek to destroy the Lord's vineyard, so it is supremely important for them to take care that the tares are not gathered before the harvest, lest, perhaps (may it be far from us), even the wheat be uprooted along with them. Truly...

[*Latin ed. p. 611*]

Document I, 611: Just as heretical perversity ought not to be tolerated, so too religious simplicity ought not to be undermined, lest our patience furnish boldness to heretics, or lest the simple be confused by undue impatience, so that, being divided among us, they might be turned into a perverse bow and be used by heretics to turn the simple away from the truth. Indeed, you have signified to us by your letters, brother Bishop, that this is occurring both in your diocese and in the city of Meten [etc., as above, 603-4, to the word "in secret"]. Because, in matters of doubt, a judgment is not easily rendered, and since, as you have informed us by your letters, brother Bishop, those who err in faith differ from the salutary doctrine, we do not deem it necessary to express our opinion concerning those whose opinions and lives we know nothing about, who have translated the sacred Scriptures in such a way, or who teach such translations, of whom neither can be done without knowledge of literature, although they seem to deserve to be rebuked for holding secret gatherings, and for not fulfilling their duty [etc., as above, 604, to the word "not belong"]. We command and urge you, through our apostolic writings, to diligently exhort them, using reasons and exhortations, so that they completely cease from those things in which they are clearly reprehensible, and do not claim a duty that does not belong to them. Also, diligently inquire into the truth: who is the author of that translation? What is the intention of the translator? What is the faith of those who use it? What is the cause for teaching it? If they venerate the Apostolic See and the Catholic Church, and if, sufficiently instructed by your letters concerning these and other matters necessary to fully investigate the truth, they wish to understand what should be decided, we shall be able to better understand what should be determined. However, we open the way for you, in the letters which we commonly address to them, to reclaim them and to convince them according to Scripture concerning those things which we have noted as reprehensible. Given at Lateran, on

Translated by churchlatin.ai, a product of Boyne Archives

the fourth day before the ides of July, in the year of Our Lord 1199.

[*Latin ed. p. 612*]

612 Documents concerning Biblical Societies 3. INNOCENT III, Epistle, book 2 (not 3, which does not exist), to the Abbots of Glistercie, Morimunden, and of the Crypt. Concerning the examination of a suspected heresy with the Bishop of Metz. The prudence and circumspection that must be employed by prelates of the Church in fostering virtues and eradicating vices, so that neither the density of thorns may excessively damage the crops, nor may the wheat be uprooted by the removal of sown tares. Likewise, when amputating or treating the bodies of the sick, the eyes must precede the hand in diligence, and the finger must anticipate the iron, lest, if a cautery is applied carelessly, it may not only fail to heal the diseased parts, but may also weaken the healthy ones. This must be observed with even greater diligence in the case of mental afflictions, inasmuch as we know the soul to be more noble than the body, and spiritual things are to be preferred to carnal ones. However, we ourselves, attending more diligently to this matter, learned that our Most Reverend Father, the Bishop of Metz, had informed us in his letters that a considerable number of laymen and women, both in the diocese and in the city of Metz, were devoting themselves to a Gallican translation of the divine books, and that they were even presuming to hold secret gatherings among themselves, rejecting the fellowship of others, and resisting those priests who reproached them, whom they displease because of their simplicity, confident in their own skill in translation. This did not immediately incite us to vengeance, but rather, we directed letters apostolic to be sent to all those established under him, both in the city and in the diocese of Metz, who, by examining a transcript of them, will be able to ascertain the truth. Furthermore, we gave instructions to the Bishop and Chapter of Metz to diligently inquire into the truth, to discover who was the author of that translation.

[*Latin ed. p. 613*]

Document 613: The intention of those who introduce [the vernacular version] is to undermine the faith, which is the cause of teaching; if those who use it were to venerate the Apostolic See and honor the Catholic Church, so that, being sufficiently instructed through their letters concerning these matters and other things necessary to investigate the truth more fully, they might more clearly understand and more plainly know what ought to be decided concerning these things. However, recently the same bishop informed us through his letters that some of those whom he had previously designated in his earlier letters are refusing to obey the apostolic mandates; while some of them openly declare that they owe obedience only to God, while others, even in secret gatherings, do not cease from usurping the

Translated by churchlatin.ai, a product of Boyne Archives

office of preaching, although they are forbidden to do so, and they despise those who are not like them, and they insist so much on this [vernacular version] that they assert that they will not obey either their bishop or their metropolitan, nor even Us, if We should decide to abolish it. Although such individuals deserve to be blamed for holding secret gatherings, for usurping the office of preaching, for despising the simplicity of priests, and for reproaching those associations that do not accept this [vernacular version]; so that nothing may seem to be done hastily, We command and enjoin you, through Our apostolic letters, relying fully on your prudence, to summon to your presence, together with the aforementioned bishop, those who are wise and adhere to the aforementioned [vernacular version], and, if possible, to correct with authority those among them who have been found to be blameworthy, removing the obstacle of the appellation [of heresy]. But if they should perhaps refuse to accept your correction, inquire more thoroughly about those chapters which we expressed to you in the letters which we sent to the bishop, as we have expressed above, and about other matters, and inform us more fully through your messenger and letters; so that, having been made more certain through you, we may proceed as it shall be necessary. For in this matter the welfare of the entire Church is involved.

[*Latin ed. p. 614*]

614 Concerning matters pertaining to biblical societies, and in order that the cause of the Christian faith may be promoted, we desire and command that you, scholars, be diligent and prompt in carrying out the mandate of the Apostolic See, with the utmost care and caution. Given at the Lateran Palace, on the ninth day before the Kalends of December. SECOND DOCUMENT. FROM THE HOLY COUNCIL OF TRENT, Session 22, chapter 8. The Mass should not be celebrated in the vernacular language throughout the territory, but should be explained. Although the Mass contains much instruction for the faithful people, it did not seem expedient to the Fathers that it should be celebrated throughout the territory in the vernacular language. Therefore, retaining everywhere the ancient rite of each church, which has been approved by the Holy Roman Church, the mother and teacher of all churches, lest the sheep of Christ hunger, nor the little ones ask for bread, and that no one break it for them; the Holy Synod commands pastors and all those who have care of souls, that frequently, during the celebration of the Mass, either by themselves or by others, they explain something from what is read in the Mass; and, among other things, that they declare some mystery of this most holy sacrifice, especially on Sundays and feast days. From the same Session, Canon IX. If anyone should say that the rite of the Roman Church, by which a part of the Canon and the words of consecration are pronounced in a subdued voice, is to be condemned; OR THAT THE MASS SHOULD ONLY BE CELEBRATED IN

Translated by churchlatin.ai, a product of Boyne Archives

THE VERNACULAR LANGUAGE, or that wine should not be mixed in the chalice when it is offered, because this is contrary to the institution of Christ, let him be anathema.

[*Latin ed. p. 615*]

THIRD DOCUMENT. ALEXANDER PP. VII, FOR THE SAKE OF FUTURE REMEMBRANCE. It has come to our ears, with great sorrow of spirit, that in the kingdom of Galliae, certain sons of perdition, eager for the ruin of souls, and despising both ecclesiastical sanctions and practice, have arrived at this novelty: to translate the Roman Missal, written in the Latin language, which has been approved by the Church through centuries of use, into the vulgar Gallic tongue. 1 This document, although appearing in the form of a Motu Proprio, it is certain that it was issued by the assembled Clergy of Galliae. It is pleasing to refer to a portion of such writings. – Indeed, Most Holy Father, we, that is, this entire assembly of Fathers and General Councils, have been led by many and most serious reasons, which are not hidden from Your Holiness, who are endowed with the fullness of knowledge and understanding of all things: and especially, because, besides the reverence for antiquity, the very dignity and majesty of Christian rites and mysteries demand that they not be exposed in a vulgar and readily accessible manner, lest they become cheapened by their very frequency and constancy, and that they be all the more wondrous and venerable the rarer they are; and lest – a change of syllables or words, which is drawn from the dialect and peculiarity of individual languages – introduce some scandal or offense in matters of faith and doctrine, and that, as it is written in the Books of Kings, each people and province fabricate its own God, while inventing a particular religion from its own mind, based on corrupted or misunderstood sacred texts, as did the Waldenses, and others of the poor from Lugduno, and other such vile and pestilent people, and the memory of our fathers, especially in the northern regions, and even in our own Galliae, where orthodox faith and religion (alas!) have been miserably divided and torn by factions, Luther, Calvin, Beza, and their followers, who spread their poison, especially through a corrupted version of the Sacred Scriptures and divine offices into the vernacular language, among men of low character and the uneducated populace... Indeed, Most Holy Father, there is nothing better or more useful than the written Word of God, and nothing worse or more dangerous in any other way, for it is the corruption of the best, and as Vincent of Lerins, fighting with his pen against the novelties of profane heresies, says, the divine Scripture is the book of heretics; and no error has ever arisen against the faith, which has not been protected by some corrupted text of the sacred writings as a shield. And therefore, just as the explanation of this matter is wonderfully commended by the Council of Trent to the parish priests and pastors of

Translated by churchlatin.ai, a product of Boyne Archives

souls, so that during the celebrations of the Mass or the divine services,

[*Latin ed. p. 616*]

616 Those who have dared to publish documents concerning biblical societies, and to disseminate them through the press to persons of any order and sex, and who have thus attempted, with reckless audacity, to cast down and trample upon the majesty of the sacred rites, expressed in Latin words, and to expose the dignity of the sacred mysteries to the vulgar, We, to whom it has been entrusted, undeservedly, by the Lord Sabaoth, through our Savior Christ, to care for the vine of the Lord, planted by Him and watered with His precious blood, must strive to prevent the growth of such thorns, and to cut off their roots as much as we can in God, and, just as we abhor and detest this novelty, which disfigures the beauty of the perpetual Church, so too the aforementioned Missal, written in the French language by anyone, or which is to be written or published in the future in any other way, is condemned and prohibited, because it explains the sacred words daily in the vernacular language, when the Mass itself contains great instruction for the faithful; and furthermore, its rendering word for word is also condemned and prohibited, because this has been the cause of many errors and a breeding ground for them (December 6, 1660). Thus, Cardinals, Archbishops, Bishops, and other ecclesiastical men, gathered in general councils with the French clergy in Rome. However, the Sacred Faculty of Paris, on January 4, 1660, had previously informed these Bishops, considering as follows: Concerning the Missal recently printed in French, it is far from the truth that it has ever granted permission for its approval to anyone, since only permission was requested to approve an explanation of the Masses for the entire year, and not any French version of the Missal; rather, it undoubtedly denied permission to the one who requested it; and it cannot, and does not, approve the approval given by anyone to that translation, as it disapproves, as it does in the present declaration, just as it denied permission to the Masters who requested permission to approve a version of the Roman Breviary in 1655, and it disapproved of the approval given by others for a version of the New Testament in 1649. For this reason, four of its members were appointed to address and warn the most illustrious Bishops of the Gallican Church in Paris, to inform them how much the Sacred Faculty detests such versions, and how it has always religiously adhered to the traditions of the ancients, who, resisting the novelties that flourished in former centuries, forbade the translation of the Sacred Bible and ecclesiastical Offices into any language (namely, the censure imposed on Erasmus). However, the Pontifical letters, which these Bishops received, contained a very serious encyclical letter to the other Bishops of Gaul, delivered on the eve of the Ides of March, 1661, in which they reinforced the previous opinion (see ZACCARIA, Storia polemica

Translated by churchlatin.ai, a product of Boyne Archives

della proibizione dei libri, Diss. 3, part. I, cap. 1-2).

[*Latin ed. p. 617*]

Document Fourth: 617. Furthermore, with certain knowledge and mature deliberation, We perpetually condemn, reject, and forbid, and We wish that it be considered as condemned, rejected, and forbidden, the impression, reading, and retention thereof, to all and each of the Christian faithful of either sex, of whatever rank, order, condition, dignity, honor, and prominence, even though special and individual mention might be made of them, under the penalty of excommunication, incurred latae sententiae by the very law, We perpetually prohibit. We command that whoever has it, or will have it in the future, immediately and with effect exhibit and deliver it to the local Ordinaries or Inquisitors, who, without any delay, shall burn the copies and cause them to be burned. To those who act to the contrary, notwithstanding. Given in Rome, at Saint Mary Major, under the seal of the Fisherman, on the twelfth day of January, 1661, in the sixth year of Our Pontificate. S. Ugolinus. Follows the testimony of the affixation and publication made on February 7, 1661. DOCUMENT FOURTH. PROPOSITIONS OF PASCHASIO QUESNELLI, CONDEMNED BY POPE CLEMENT XI, CONSTITUTION "UNIGENITUS," ON THE SIXTH CALENDS OF SEPTEMBER, 1713. 79. It is useful and necessary at all times, in all places, and for all kinds of people, to study and know the spirit, piety, and mysteries of the Holy Scriptures (1 Corinthians 14:5). S. The reading of the Holy Scriptures is for all (Acts 8:28).

[*Latin ed. p. 618*]

618 Documents concerning Biblical Societies 81. The obscurity of the holy word of God is not a reason for laypersons to excuse themselves from its reading (Acts, VIII, 31). 82. The Lord's Day ought to be sanctified by Christians through readings of piety and, above all, through the holy Scriptures. It is harmful to wish to withdraw a Christian from this reading (Acts xv, 21). 83. It is a delusion to persuade oneself that knowledge of the mysteries of religion should not be communicated through the reading of sacred books. The abuse of the Scriptures and the birth of heresies arose not from the simplicity of women, but from the proud knowledge of men (John, iv, 26). 84. To snatch the New Testament from the hands of Christians, or to keep it from them by denying them the means of understanding it, is to shut their mouths before Christ (Matthew, v, 2). 85. To forbid Christians the reading of the holy Scriptures, especially the Gospel, is to forbid the use of the light to the children of light, and to cause them to suffer a certain kind of excommunication (Luke, xi, 33). 86. To deprive the simple people of the comfort of joining their voice to the voice of the whole Church, is a practice contrary to the Apostolic practice and the intention of God (1 Corinthians, xvi, 16). PROPOSITIONS CONDEMNED BY POPE PIUS VI IN THE CON-

Translated by churchlatin.ai, a product of Boyne Archives

STITUTION "AUCTOR FIDEI," SEPTEMBER 1ST, 1794, BY THE SYNOD OF PISTORIENSI, UNDER NOS. 66 AND 67. LXVI. The proposition asserting "that it would be contrary to the Apostolic practice and the designs of God, unless easier ways were prepared for the people to join their voice to the voice of the whole Church," understood as concerning the use of the vernacular language in liturgical prayers, is false, rash, disruptive of the order prescribed for the celebration of the mysteries, and easily productive of many evils. LXVII. The doctrine that reading of the sacred Scriptures excuses only a true impotence, is...

[*Latin ed. p. 619*]

Document 619. The fifth [document] reveals the self-betrayal of a people, due to the obscurity that arose from the neglect of the primary truths of religion: errors, rash, disturbing the peace of minds, which were otherwise condemned in Quesnel. DOCUMENT FIFTH, a brief decree by which the Roman Ritual, published in the French language, is condemned. POPE CLEMENT IX, for the sake of posterity. The reason entrusted to us by divine grace, concerning the care of all churches, demands that we, who are appointed by the Lord as guardians of ecclesiastical discipline, everywhere strive diligently to preserve it, constantly attending to it with all care and vigilance, so that nothing may creep into it, by which it might be disturbed in any way, or the prescribed rites be deviated from, and the way to errors be opened. Now, since (as has come to Our knowledge) a book has been printed and published in the French language in Paris in the past year, entitled "Rituel Romain du Pape Paul V'à l'usage du Diocèse d'Alet avec les instructions, et les rubriques en François," which not only contains certain things foreign to the Roman Ritual itself, ordered by Pope Paul V, Our predecessor, but also contains certain doctrines and propositions that are false, singular, dangerous in practice, erroneous, and contrary to the customs commonly received in the Church, and opposed to and repugnant to ecclesiastical constitutions, by means of which, through their use and reading, the faithful might gradually be led into already condemned errors, and infected with wicked opinions; We deem it fitting to apply a remedy to this evil.

[*Latin ed. p. 620*]

620 Concerning documents pertaining to biblical societies, by a papal decree, and with certain knowledge and mature deliberation, we, by the authority of the Holy See, entirely condemn, reject, and prohibit a book published in the French language under the title "Ritualis," and we declare that it is to be considered condemned, rejected, and prohibited, and we forbid its printing, reading, retention, and use by all and each of the faithful of Christ, especially in the City and Diocese of Aleten, whatever their rank, condition, dignity, or prominence may be, although special and

Translated by churchlatin.ai, a product of Boyne Archives

individual mention is made of them, under penalty of incurring excommunication latae sententiae, which is perpetually prohibited. We command that whoever has it, or will have it in the future, immediately present it to the Ordinary of the place, or to the Inquisitors, who are subject to the Most Reverend Bishop of Aleten, the Metropolitan, or one of the neighboring Bishops, and that they deliver and consign it to them effectively; and that, without any delay, they burn the copies received by them, and any others they may have, and make ashes of them. Those who act to the contrary will incur no small penalty. Given in Rome, at the Basilica of Saint Mary Major, under the Fisherman's Ring, on the twentieth day of February, in the year 1668, in the first year of Our Pontificate. I. G. Slusius. 2. A Brief by which a version of the New Testament in the French language is condemned. CLEMENT, POPE IX, FOR THE SAKE OF REMEMBRANCE. The pastoral office, which, by divine disposition, we hold over the government of the Catholic Church throughout the world, demands that the Holy Scriptures be preserved in that purity in which they have been handed down through so many centuries by the immense benefit of God.

[*Latin ed. p. 621*]

Document Fifth. We have preserved [copies] and strive with all diligence to safeguard them, ensuring they remain untainted. Now, as has come to our ears, a certain book, a French version of the New Testament, entitled: "Le nouveau Testament de notre Seigneur Jesus Christ traduit en franqois selon l'édition vulgate avec les différences du Grec," printed and published in Montibus, Hannoniae, and Lugduni (as is written there); We have entrusted this book to several of our Venerable brothers, Cardinals of the Holy Roman Church, and to other men distinguished by piety, learning, and wisdom, to be carefully discussed and examined, as the gravity of the matter demands; and after hearing and considering their opinions, we condemn and prohibit, by the authority of the Apostolic See, this very book, the French version of the New Testament, as mentioned above, wherever it may have been printed or may be printed in the future, deeming it a rash, harmful, and unauthorized edition, differing from the Vulgate and containing offenses to the simple. We declare that no one, of whatever rank or condition, even if specially and particularly worthy, shall dare or presume, under pain of incurring excommunication latae sententiae by such an act, to read, retain, sell, or print, or cause to be printed, this book; but those who possess it shall be obliged, under the same penalty, to present it to the Ordinary or Inquisitors of the place as soon as they have knowledge of this prohibition. All who act to the contrary, notwithstanding. In order that these present letters may more easily come to the knowledge of all, we decree and command, by the aforementioned authority, that they be published by one of our messengers at the doors of the Basilica of the Prince of the Apostles, and at the Chancery of the Apostolic See, and in the Campo

Translated by churchlatin.ai, a product of Boyne Archives

de' Fiori in the City, and that copies of them be affixed there, so that all those concerned, whether individually or collectively, may be informed of them in Italy within one month, and outside of Italy within four months, from the date of publication.

[*Latin ed. p. 622*]

Documents concerning biblical societies, if they are to be prepared here in the City, shall have the same force, and shall produce the same effect, as if they had been personally notified and communicated to each individual; and the same validity in judgment, and outside of it, shall be held by these documents, whether printed or in manuscript, signed by a public notary, and sealed with the seal of a person holding an ecclesiastical office, as would be held if they were presented or shown. Given in Rome, at Saint Peter's, under the seal of the Fisherman, on the twentieth of April, 1668, in the first year of Our Pontificate.

I. DOCUMENT: G. SLUSIUS. SEXTUM. (Benedict XIV, in his work *De Synodo Dioecesana*, book 6, chapter 10; concerning the Synodical Decree on the prohibition of the reading of the divine Scriptures in the vernacular in certain places, if abuses have occurred: but if no abuse exists, it is better to remain silent on this matter. The Reverend Father Rotarius, among the students of the Dominican family; an accurate writer, and an inquisitor against heretical perversity, of whom many things are remembered with praise. P. Echardus, Volume 2, *Scriptorum Ordinis Praedicatorum*, page 188, published a dissertation on the non-translation of the Holy Scripture into the vulgar tongue, which he addressed to Henry II, King of France, in the year 1548. This work, generally well-received in Gallus, was again presented for discussion by the public authority of the Gallican clergy in the year 1661. Three eminent Cardinals of the Holy Roman Church also discussed this matter, refuting the opinion of those who maintained that the translation of the Holy Scriptures into the vernacular was either absolutely necessary, or at least opportune, and very useful, so that everyone might freely read them. Hos.

[*Latin ed. p. 623*]

From the document of Sestri Ponente, among the first to be found is Cardinal Stanislaus Hosius, who admirably fulfilled the office of legate in the Council of Trent, book 3, on the authority of Holy Scripture, page 247; another is Cardinal James de Perron, Hebrews 6, chapter 6, Response to the King of England; a third is the Venerable Cardinal Bellarmine, volume 1, Controversies on Faith, book 2, on the Word of God, chapter 15. If anyone wishes to know other authors, and indeed many, who with learned pens have elucidated various treatises and dissertations, demonstrating that the reading of the Holy Scriptures, rendered into the vernacular language, should not be permitted to everyone, let him consult

Translated by churchlatin.ai, a product of Boyne Archives

the volume published in Paris in 1661, under the authority of the Clerical Council, with this title: "A Collection of Certain Grave Authors, who, either expressly or by occasion, have condemned the translations of the Holy Scriptures or Divine Offices into the vernacular language." To these, we can add, besides Justus Fontanus in his work "On Italian Eloquence," the word "Romanzo," or "Romance," and also Passavanti in "The Mirror of True Penance," where he solidly proves with reasons how difficult it is to accurately and faithfully translate the Holy Scriptures into the vernacular language. For it is not enough, to properly complete the work, to have only linguistic skill; but other knowledge is also necessary, which interpreters mostly ignore. We do not wish to pass over in silence Frederick Coriolanus, a man renowned for his learning, and well-received by Emperor Charles V and his son Philip II. This author wrote and published a work "On Counsel and the Counselor," which was unanimously approved and commended. However, having soon exceeded the bounds of sobriety, after adorning his work with a dissertation published in Basle in 1556, with the title: "Boulogne," or "On the Translation of Sacred Books into the Vernacular Language," he earned the indignation and censure of many, in which he introduced many errors, as testified by Father Michael of St. Joseph, now Bishop of Guadix, volume 2, "Critical Bibliography," page 413.

[*Latin ed. p. 624*]

624 Documents concerning Biblical Societies, Part I. It is not our intention to exhaustively discuss this entire controversy, nor to delve into every detail; however, we do not wish to abstain from those matters which, once known, can be of great benefit. Therefore, it is fitting to note first that the Supreme Pontiff Innocent III employed appropriate remedies to regulate the translation of the Divine Scriptures, since the translation of these Scriptures into the French language, widely disseminated in that diocese, had caused not insignificant disturbances. This matter should be consulted in the aforementioned Pontiff's letter, number 141, book 2, pages 432 and 434, according to the collection of Baluzius. Also, Raynaldus should be consulted for the year of Christ 1199, number 27. Secondly, our predecessor, Clement XI, through the famous Constitution *Unigenitus*, condemned certain propositions, including number 79 and several others that followed, which would have led all to the necessity of reading the sacred Scriptures. Once this was established, the very translation of the Scriptures into a language accessible to everyone would necessarily be established. This error, confirmed by pontifical authority, was challenged by other Catholic writers, among whom are to be counted Father James Fontana of the Society of Jesus, volume 3 of his works, which was published in Rome in 1721 against the propositions of Quesnelle; Father Fulgentius Beltelli of the Order of the Hermits of Saint Augustine, volume 2 of his works, which he wrote against the same propositions of Quesnelle, and which was printed in Rome in

Translated by churchlatin.ai, a product of Boyne Archives

1737. Father Viva of the Society of Jesus also, in his writings, completed and published his work against this very error.

Part III. Nor were there lacking several Bishops who, concerned for the care of their flock, sought to remove the indiscriminate reading of the sacred Scriptures in the vernacular language through synodal constitutions. In the Council of Toulouse, held in the year 1229, and reported by Harduin in the collection of Councils, volume 7, column 178, chapter 14, it is cautioned against the laity possessing books.

[*Latin ed. p. 625*]

Document 625 from Sestri Ponente, concerning neither the Old nor the New Testament, except for the Psalms and the Breviary: soon after, it is added: "But, so that these books may not be available in a vulgar translation, we strictly forbid it." Similarly, the Provincial Council of Oxford in the year 1408, cited in volume 8, collection of Harduin, column 1491, established this. 7. It is a dangerous thing, as testified by the Blessed Jerome, to transfer the text of Holy Scripture from one language to another, because in these translations, it is not easily possible to retain the same meaning in all things. Then, it prohibits anyone from presuming to translate any book of the Divine Scriptures into the English language; it condemns the version instituted by Wycliffe; and finally, it decrees that no translations shall be accepted unless they have first been approved by a decree of the Provincial Council. In the most recent Councils, which were held in Sabandja Su, a collection compiled by Louis Odespun contains the Provincial Council of Bourges, held in the year 1584, in which, under the title 4 concerning the removal of abuse of Scripture, the following canons are decreed: 2. All Bibles and any other books about Faith and Religion written in the vernacular language are to be rejected, unless those approved by the authority of the Holy Catholic Church and the Ordinary. The same is established in the Council of Jerusalem, in the year 1672, convened by the Patriarch Dositheus against the Calvinists, the acts of which Council are found in the aforementioned collection of Harduin, volume 11, columns 255 and 258. Furthermore, other Councils held in the provinces of Belgium, namely Cambray and Mechlin, and also the Diocesan Synods of Bruges, Ypres, Ghent, Namur, and Liège, stipulate that the indiscriminate reading of Divine books in the vernacular language is prohibited, as testified by P. Fontana, cited in volume 3, page 593, under number 4. I V. However, we believe that the decrees of these Councils and Synods have been conducive to utility and necessity, because in the provinces and dioceses in which they were promulgated, the abuse of indiscriminate reading of sacred books in the mother tongue has already been present, for each Act, volume IX, page CVI. 40.

[*Latin ed. p. 626*]

626 Documents concerning biblical societies, for the understanding and

Translated by churchlatin.ai, a product of Boyne Archives

benefit of the reader, and for the guidance of translators. But in those places where such abuses have not yet been introduced, perhaps Bishops might, with less prudent counsel, attempt to suppress the reading of certain books, and impose penalties. For it is the condition of men that they strive for what is forbidden, and once something has been prohibited, driven by a pernicious curiosity, they seek to investigate more diligently what is forbidden; and for this very reason, they break the law, in order to examine what is denied to them by the law's command. St. Charles Borromeo, truly great in prudence and vigilance, in the first Council of Milan, which he presided over in the year 1565, decreed that this law should be observed: That Bishops should order that the rules of the Index concerning prohibited books, published by those who were entrusted with this matter by the most holy Tridentine Synod, by the authority of the Most Holy Pope Pius IV, be observed by all printers, booksellers, and all other lay and ecclesiastical persons. The fourth rule of the Index, established by the order of the Council of Trent, and confirmed by the authority of Pope Pius IV, prescribes the following concerning the reading of sacred books in the vernacular: Since it has been clearly demonstrated by experience that, if the sacred Bible is permitted to be read in the vernacular language indiscriminately and everywhere, more harm than benefit will result therefrom, in this matter the judgment of the Bishop, or the Inquisitor, shall prevail, so that, with the counsel of the parish priest, or confessor, they may grant to Catholics the permission to read in the vernacular language books written by Catholic authors, which they believe that, from such reading, they will receive an increase in faith and piety, rather than harm; and they shall have this permission in writing. But those who presume to read, or possess such books, without such permission, will not be able to receive absolution for their sins, unless they first present the Bibles to the Ordinary. V. But because, in the following years, experience has shown that Bishops and Inquisitors, whose judgment concerning the vernacular—

[*Latin ed. p. 627*]

In Sextum, the reading of certain books could be permitted or denied, as circumstances dictated; indeed, even the Superiors of the Regular Orders had arrogated to themselves the same authority that had been granted to Bishops and Inquisitors. Hence, at the command of Clement VIII, the following rules were added to the fourth of the Index: It is to be noted concerning the aforementioned fourth rule of the Index, that the Most Holy Pope Pius IV, in this edition, does not grant anew to Bishops, or Inquisitors, or Superiors of Regular Orders, the power of granting permission to buy, read, or retain Bibles printed in the vernacular, since hitherto, by the mandate and usage of the Holy Roman and universal Inquisition, such power of granting permissions to read or retain Bibles in the vernacular, or other parts of the Holy Scriptures, either of the Old or New Testament,

Translated by churchlatin.ai, a product of Boyne Archives

printed in any vernacular language, and also summaries and compendia, even historical ones, of the same Bibles, or books of the Holy Scriptures, written in any vernacular idiom, has been removed from them, which must be inviolably observed. V. I. Therefore, as we trust, where no abuse concerning the reading of the Holy Scriptures has occurred, let the Bishops either remain silent, or urge only the fulfillment of the fourth rule of the Index. But where abuse has once been discovered, let it be eradicated with the root by a synodal decree. The Council of Trent, session 22, concerning the Sacrifice of the Mass, chapter 8, declares that it is not fitting that the Sacrifice of the Mass be offered in the vernacular. Where, however, no one objects, and the law is observed, it is quite superfluous to discuss this matter in Synods. But on the contrary, if, perhaps, a custom of celebrating Mass in some new idiom, which the Church has not yet approved, is gradually introduced, it behooves the Bishops not only to oppose this abuse with all their might by a synodal decree, but also to seek counsel and support from the Apostolic See, so that the growing evil may be restrained.

[*Latin ed. p. 628*]

628 Documents concerning biblical societies are more valid. In ecclesiastical history, the example of the two monks Cyril and Methodius is quite noteworthy, each of whom was renowned for his sanctity. For, after having proclaimed the Gospel in the regions of Moravia, and having conferred the power upon priests to perform the Sacrifice of the Mass in the Slavic language, they submitted their case to John VIII, the Supreme Pontiff, who, with Apostolic authority, confirmed their actions. We have explained the entire series of events in detail in the Treatise on the Sacrifice of the Mass, section 2, § 79 and following, in a more elaborate style. Therefore, so that we may not repeat the same things in vain labor, let the readers consult this passage. SEVENTH DOCUMENT. BRIEF LETTER TO REVEREND FATHER MARTIN, ARCHBISHOP OF FLORENTINO, CONCERNING THE VERSION OF THE HOLY SCRIPTURES. PIUS PP. VI, Beloved son, greetings, and the Apostolic Blessing. In this great flood of books which most fiercely assail the Catholic Religion, and with such great harm to souls, even through the hands of the unskilled, are circulated, you rightly judge that the faithful of Christ should be greatly encouraged to read the divine scriptures. For they are the most abundant sources, which should be open to all, so that they may draw from them both the sanctity of morals and of doctrine, repelling the errors which are widely spread in these corrupt times. You affirm that you have appropriately done this, by publishing those same divine scriptures rendered into the understanding of each in the vernacular language; especially since you declare, and present before us, that you have added annotations which, repeated from the most holy Fathers, remove the danger of any abuse. In this, you have not deviated

Translated by churchlatin.ai, a product of Boyne Archives

from the laws of the Congregation of the Index.

[*Latin ed. p. 629*]

DOCUMENT 629. Eighth. Neither does this pertain to that constitution which Benedict XIV, the immortal Pontiff, published; Him, whom We both recognize as our predecessor in the pontificate, and with whom we were happily joined in his family, we glory in having esteemed as the most excellent master of ecclesiastical learning. Therefore, we dare to acknowledge your doctrine, joined as it is with exceptional piety, and we give you thanks for these books which you have taken care to send to us, and we shall, if we can, read them carefully. In the meantime, receive as a witness of the benevolence of the Holy See, the Apostolic blessing which we impart to you most earnestly, beloved son. Given in Rome, at St. Peter's, on the sixteenth day before the Kalends of April, in the year 1778, in the fourth year of Our pontificate. From Philip Bonamici, Secretary of Letters for His Holiness.

DOCUMENT EIGHTH.

I. TO THE VENERABLE BROTHER IGNATIUS, ARCHBISHOP OF GNESEN.

From Warsaw. Venerable Brother, etc.

In our most recent letters, we promised to give you a reply as soon as possible to your communication, in which, on behalf of all the bishops of Poland, you addressed this Holy See concerning the Societies which are called "biblical," and you earnestly requested our opinion on what ought to be done in this matter. Indeed, We would have wished to do this much sooner; but an incredible multitude of cares and concerns has prevented us from satisfying your request until this day. We are greatly dismayed by the very grave discovery by which even the foundations of religion are undermined, and in which, for the gravity of the matter, Very Reverend Fathers, Members of the Sacred Congregation [of the Holy Roman Church], are involved.

[*Latin ed. p. 630*]

630. Having carefully considered, with the utmost diligence and concern, which measures would be most suitable for our pontifical authority to remedy and eliminate, as far as possible, that pestilence concerning biblical societies, we have deliberated. We congratulate you, venerable brother, and commend you again and again in the Lord, for having shown such zeal in this grave matter concerning the Christian faith, and for having brought to the attention of this Apostolic See that grievous flaw in the faith and that grave danger to souls. And although we do not see it as absolutely necessary to urge you to action, since you have already spontaneously risen

Translated by churchlatin.ai, a product of Boyne Archives

up to expose and combat the impious machinations of the innovators, nevertheless, for the sake of our duty, we urge you again and again to exert all your strength, counsel, and authority, and to strive intensely each day, to be a wall for the house of Israel. For this purpose, we send you these letters, so that we may commend your praiseworthy efforts with a notable testimony, and so that we may strive to stir up even greater pastoral concern and diligence in this matter. It is of the utmost importance that all should conspire with every effort and work to repel those things which are being prepared by the enemies of our most holy religion to its detriment; and therefore, it is the duty of the episcopal office to bring to light, as you are already doing admirably, the wickedness of the nefarious plot, to place it before the faithful, and to establish, according to the prescriptions of the Church, rules for it, as far as you can, with learning and wisdom; namely, that the works of heretics printed in the vernacular should be prohibited, according to the rules of the Index (§ 1, n. 3); and it has been demonstrated by experience that more harm than benefit arises from the Sacred Scriptures which are published in the vulgar tongue, due to the recklessness of men (Reg. IV); and this is all the more to be feared in this corrupt age, in which the holy religion is attacked from all sides by every art and effort, and the most grievous wounds are inflicted upon the Church. Therefore, it is necessary to adhere to the salutary decree of the Congregation of the Index (June 13, 1757), concerning the vernacular versions of the Bible.

[*Latin ed. p. 631*]

Document Eighth: It is not to be permitted to use any language, unless it has been approved by the Apostolic See, or it has been published with annotations taken from the holy Fathers of the Church. We certainly hope that the arguments of our ancestral religion will provide the clearest light to the Poles, even in these troubled times; and we congratulate you, along with the other prelates of this kingdom, who strive wonderfully for the preservation of the deposit of faith, in the Lord, confident that you will all receive and fulfill these instructions most diligently. It is necessary, however, that you send us as soon as possible the Bible which James Wickius published in the Polish language, with commentaries, and the most recent edition of it, which has been published for the people, having removed the annotations which were taken from the holy Fathers of the Church, or from learned Catholic men; and you must express your opinion about it, so that, through careful comparison and deliberation, it may be determined which errors are insidiously hidden therein, and so that our judgment, for the safety of true faith, may be pronounced. Therefore, venerable brother, continue to follow the path which you have established, that is, to constantly wage war for the Lord in sound doctrine, and to warn the people entrusted to you, so that they do not fall into snares which are prepared for them for their eternal ruin. This is what we desire for you and for the other bishops,

Translated by churchlatin.ai, a product of Boyne Archives

to whom this letter also pertains, and we earnestly pray that, through the apostolic blessing which we impart to you and to them, the sorrow caused by the concept of a new kind of tares which the enemy, that is, man, sows, may be somewhat alleviated, and that you and your fellow bishops may always receive greater graces for the good of the Lord's flock. Given in Rome, at Saint Mary Major, on the fourth day of June, in the year 1816, in the seventeenth year of Our pontificate.

NOTE: When this letter was given, the diocese of Posen had not yet been established as an archdiocese, nor was it united with Gnesen; which happened a little later.

[*Latin ed. p. 632*]

632 Documents concerning Biblical Societies II. TO THE VENERABLE BROTHER STANISLAUS, ARCHBISHOP OF MOHILO. Venerable Brother, greetings, etc. We are filled with great and acute sorrow when we learned of the disastrous plan, not for the first time conceived, by which the most sacred books of Scripture are being disseminated in new and, contrary to salutary Church regulations, interpretations, and these are cleverly twisted into perverse meanings in every vernacular language. For from some of the versions already brought to our attention, we have observed that they are preparing a ruin for the sanctity of pure doctrine, so that the faithful can easily draw deadly poison from those sources from which they ought to draw the waters of saving wisdom. But even greater sorrow has overcome us when we read certain letters bearing the name of your fraternity, in which you exhort and urge the people entrusted to your care to acquire or accept these recent versions of the Bible, and to study them diligently. Nothing could have caused us more pain than to see you, who ought to have been a beacon of justice, become a stumbling block. For it should have been clear to you that, as Our predecessors constantly warned, if the sacred Bible is permitted to be disseminated widely in the vernacular language without discrimination, more harm than benefit will result. Furthermore, the Church of Rome, accepting only the Vulgate edition, as prescribed by the well-known Council of Tridentini, rejects other versions, and allows only those which are published with annotations drawn appropriately from the writings of the Fathers and of Catholic doctors, so that this great treasure is not exposed to the corruptions of novelty, and so that the Church, in its entirety,

[*Latin ed. p. 633*]

Document Eighth: Let this be spread throughout the world, a single lip and the same words. (Addition, to Rule IV, Indices). Indeed, since we observe in the vernacular language the most frequent changes, varieties, and alterations, that very immutability, which is fitting for divine testimonies, would certainly be eradicated by the unrestrained license of biblical ver-

Translated by churchlatin.ai, a product of Boyne Archives

sions, and faith itself would be corrupted, especially since, sometimes, the truth of a dogma is determined by a single syllable. Therefore, heretics have, in fact, employed the most wicked and terrible machinations, in order to conceal their own errors under the guise of divine eloquence, by presenting them through insidious means in vernacular Bibles (concerning which, however, they themselves accuse and criticize each other for their marvelous variety and discrepancy). For, as Saint Augustine said, heresies are not born unless the good Scriptures are understood poorly, and that which is understood poorly in them is also asserted rashly and boldly. (Tractate 18 on John 1:1). And if we lament that men most distinguished for piety and wisdom have, in the interpretation of Scripture, not infrequently erred, what should we fear, if the unlearned common people, who judge mostly not with discernment but with a certain rashness, were freely given access to the Scriptures translated into any vernacular language? "Indeed?" cries Saint Augustine aptly, "You would not dare to attempt to grasp the poetic discipline of Terence without a teacher... But you rush into the sacred books without a guide, and you dare to pronounce judgments on these without instruction?" (Book on the Utility of Believing, to Honoratus, Chapter 2). Therefore, in that famous letter to the faithful of the Church of Metz, our predecessor Innocent III wisely and completely commands these things: "The mysteries of the faith are not to be explained to everyone indiscriminately, since they cannot be understood by everyone indiscriminately, but only by those who can comprehend them with faithful understanding. Therefore, as the Apostle says, 'I have given you milk to drink, because you were not yet able to receive solid food.'"

[*Latin ed. p. 634*]

634 Documents concerning biblical societies are not substantial food. For the solid food belongs to the mature, as He Himself said: "Let us speak wisdom among the perfect; but among you I have not judged myself to know anything, except Jesus Christ and Christ crucified." For the depth of the divine Scripture is so great that not only the simple and unlettered, but also the prudent and learned, do not fully suffice to investigate and understand it. Therefore, Scripture says: "For many have failed in searching into mysteries." Hence, it was rightly decreed in the divine law that the beast which touched the mountain should be stoned, lest some simple and unlearned person should presume to reach the sublimity of Holy Scripture or to preach it to others. For it is written: "Seek not the things that are too high for thee, and search not into things above thy ability." Therefore, the Apostle says: "Be not more wise than it is fitting to be wise, but be wise unto sobriety." But the Constitutions of Innocent III, and also of Pius IV, Clement VIII, and Benedict XIV, are well known, in which it was cautioned that if Scripture were to be made clear to all, it might, perhaps, be held in contempt, or that it might lead the common people into error through a

Translated by churchlatin.ai, a product of Boyne Archives

wrong understanding. But let your fraternity know most clearly the mind of the Church concerning the reading and interpretation of Scripture from the excellent Constitution *Unigenitus* of our predecessor, Clement XI, in which those doctrines are clearly condemned, which asserted that it was useful and necessary for all people, at all times, in all places, and of all kinds, to know the mysteries of Holy Scripture, and that it was harmful to prevent the Christian people from reading the same, indeed, to close the mouth of Christ to the faithful, when the New Testament is taken from their hands. (Prop. Quesnelli 79, 80, 81, 82, 83, 84, 85). But what causes us even greater sorrow is that you have gone so far as to remove from the decree of the Council of Trent concerning the canonical Scriptures those passages which are set down in the same context concerning traditions. For those Most Holy Fathers openly say, "the word..."

[*Latin ed. p. 635*]

Document Eighth, 635: God is to be found not only in written books, but also in the most certain traditions of the Church, pertaining both to faith and to morals, which the holy Synod embraces and venerates with great piety, considering them to have been either spoken by Christ Himself or by the Holy Spirit, and preserved in the Catholic Church through continuous succession; you, venerable brother, have not hesitated to utterly mutilate this passage. With a similar deceit, we observe that you have omitted the letters of our predecessor, Pope Pius VI, addressed to the Archbishop of Fiorentino, which you presented. For that most wise Pontiff praises the carefully prepared version of the Holy Scriptures by him, precisely because it is abundantly enriched with explanations and interpretations drawn from tradition, and because it faithfully observes the rules prescribed by the Sacred Congregation of the Index and by the Most Holy Fathers. You have suppressed that part of those letters in which these things are mentioned, and thus you have not only aroused the most just suspicion regarding your sentiments on this matter, but you have also provided others with a cause to err in this very important matter, both concerning the holy Synod and concerning the account given by our praised predecessor. What else do those alterations signify, venerable brother, except that you either do not rightly believe in the most holy traditions of the Church, or that you have deliberately altered those passages in order to favor the machinations of innovators, who certainly aim to deceive the faith of the readers, and to allow even ordinary people to read versions that, as we have shown above, can harm them far more than they can benefit them? Furthermore, if all of this were not already quite improper for any Catholic, what should be said of a sacred minister of the Church, for whom pastoral dignity requires him to be a guardian of the deposit of faith and doctrine, and who is strictly bound by oath and by religion to diligently remove the dangers of error from his people, and to observe and defend the laws and regulations of the

Translated by churchlatin.ai, a product of Boyne Archives

Church?

[*Latin ed. p. 636*]

636 Concerning Documents Regarding Biblical Societies. Therefore, venerable brother, you see what ought to be the course of action between us, if we were to wish to follow the strictness of canonical laws. For, as Saint Thomas of Canterbury said, "He who consents to error, is he who does not confront what ought to be corrected..." and "He is not without suspicion of a hidden society, who ceases to oppose an evident wrongdoing." (Ep. ad Episcopos prov. Cant. apud Harduin. T. 6). However, because of the charity we have for you, we insist only on that matter from which, since it is a matter of divine law, we cannot refrain from commanding you to abstain, namely, that you remove the scandal which your manner of acting has caused. Therefore, we most earnestly exhort and, through the bowels of our Lord Jesus Christ, we implore you, that you diligently and with all haste correct all those things which you have wrongly taught or done concerning new versions of the Bible. And may it please you, venerable brother, to reflect on the examples of the most illustrious men, which brought them only honor, so that you may formally and solemnly repudiate those actions of yours! However, we cannot refrain from urging you, and even commanding you, in virtue of holy obedience, to at least do that which is necessary for the sake of the purity of doctrine and the preservation of the integrity of the faith, namely, that in new writings given to the people, you sincerely and clearly expound the truth, citing integrally both the decree of the Council of Trent and the letter of Pius VI on this matter, and that you teach that Christian doctrine, both dogmatic and moral, is contained not only in the Scriptures but also in the traditions of the Catholic Church, and that it pertains solely to the Church to interpret them: furthermore, declare that it was not your intention to commend vernacular translations of the sacred books, which were not in exact accordance with the prescriptions of canons and apostolic constitutions; finally, make it known and declare that, in urging and inculcating the reading of these divine Scriptures, you do not address indiscriminately all the faithful, but only those who are ecclesiastical.

[*Latin ed. p. 637*]

Document VIII has considered 637 men, or even laymen, who, nevertheless, were sufficiently instructed according to the judgment of the pastors. And all these things, if you shall have accomplished them, as we trust in the Lord, and with a prudent, docile mind, we most certainly promise that you will bring great consolation to Our heart and to the entire Church. Relying on this hope, we impart to you, venerable brother, and to the flock entrusted to your care, our apostolic blessing. Given in Rome, at Saint Mary Major, on the third day of September, in the year 1816, in the seventeenth

Translated by churchlatin.ai, a product of Boyne Archives

year of Our pontificate.

NOTE. – It is unknown to us whether the Metropolitan of Mohiloviensis, Siestrzencewicz, to whom this letter was sent, has accomplished anything of those things that were ordered. But we greatly doubt it: for he was a most wicked man, a wolf in sheep's clothing, who for fifty years and more oppressed and devastated the Catholic Church of both rites under the schismatic dominion of Moscow. About him, Augustine Theiner (in *Op. Vicende, etc.*) and the knight Artandius (in *Vita Leonis Papae XII*) have recounted infamous things. More favorably, for the Catholic cause, acted the autocrat, Alexander I, who did so much for the R.P. [Religious of the Pious Schools], that he ordered this Brief, translated into the Russian language, to be inserted in all the public newspapers of his empire, and that the members of the biblical society should be immediately expelled from all the territories under Moscow's jurisdiction.

III. LETTER FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH TO THE APOSTOLIC VICARS OF PERSIA AND ARMENIA AND OTHER COUNTRIES OF THE EAST, DATED AUGUST 3, 1816.

The Roman priest, Leopoldo Sebastiani, who was previously sent by this Sacred Congregation for the Propagation of the Faith as prefect of the missions in Persia, and who, for just reasons, was later recalled, has notified us that he has translated the first part of the New Testament from Greek into Persian, and that this translation, at the express order of the English university of India, has been printed at public expense, and that it has been so well received that, in less than two months, 1200 copies have been distributed among the Muslims alone. He has also dared to direct this work of his also...

[*Latin ed. p. 638*]

638 Documents concerning biblical societies addressed to the Holiness of the Most Holy [Pope] Pius VI, and he manifested his intention to print the second part of the New Testament translated into the Persian language, stating that he had almost completed it. In this matter, the aforementioned Sebastiani is all the more reprehensible for having entered into association with heretics and for having supported their fraudulent designs in such an important matter, since, being a priest of romano and formerly an employee of the Propaganda, he ought, more than anyone else, to have respected the rules of the Index and to have guarded himself against violating prohibitions of that kind issued by the Holy See. Furthermore, it is reprehensible that he made his Persian version based on the Greek text and not on that of the Vulgate, which is the authentic text for the Latin Church, to which he belongs, and to which belong the faithful of those missions that had been assigned to him. In particular, however, his audacity must be judged in having taken the liberty of inserting the name of Joachim in the first

Translated by churchlatin.ai, a product of Boyne Archives

chapter of the Gospel of Saint Matthew, although he says that he did so to avoid a great scandal; for, when it comes to the word of God, it is not permissible to add to it or take away from it even a single syllable, according to what is read in the Apocalypse, chapter 22, verse 18: "For I testify to every one that heareth the words of the prophecy of this book: If any man shall add to these things, God shall add unto him the plagues written in this book." The reason he gives for this interpolation, namely, to avoid a grave scandal, is even worse than the interpolation itself, as if the Divine Author, or rather, the Holy Spirit, had not foreseen or willed to avoid a grave scandal. Moreover, the liberty that he dared to take in this place, where he could so easily have been discovered, gives reason to fear that he has arrogated to himself the same liberty to add, subtract, and change in other places. Indeed, this can easily be conjectured, both from the reception given to him by the Mahometans and from the favor shown to him by the so-called Society.

[*Latin ed. p. 639*]

Document Eighth, 639, concerning a biblical collation, with which it appears he is in communication. For it is not presumable that he would have been so well received, unless he had adapted himself to execute the fundamental rules of that same society, which is principally to abstain, in translations, from all that constitutes a matter of controversy among the different Christian communions, and which distinguishes the Catholic, Apostolic, Roman religion from all false sects. For these reasons, it has been determined to submit this translation of Sebastian to persons perfectly proficient in the Persian language, in order to establish a mature examination thereof, and then to arrive at a condemnation with all due foundation. But since this examination requires much time, in order to arrest, meanwhile, the progress of error, the Holy Congregation deems it fitting to inform Your Excellency and the other Apostolic Vicars and Prefects of these missions in Persia, Armenia, and other regions, so that they may exert their zeal in dissuading the faithful from believing and reading such new translations in their respective languages, which are being disseminated by the Bible Society, and especially this one by Sebastian, which might gain much more credence, since its author is already an employee of the Propaganda. Furthermore, Your Excellency is commanded to inform the same Holy Congregation with all due haste on this matter, to add your reasoned judgment on this and other versions that are being disseminated, and to suggest the means which you believe to be most appropriate to impede the progress of these societies in these regions. On this particular matter, I must communicate this to Your Excellency, and, in anticipation of your replies, I pray that

Translated by churchlatin.ai, a product of Boyne Archives

the Lord may grant you all true contentment.

[*Latin ed. p. 640*]

640 Documents concerning III. Biblical Societies (Version of the preceding). LETTERS FROM THE SACRED CONGREGATION FOR PROPAGATING THE FAITH TO THE APOSTOLIC VICARS OF PERSIA, ARMENIA, AND OTHER REGIONS OF THE ORIENT, DATED AUGUST 3, 1816. The Roman priest, Leopold Sebastiani, who had previously been sent by this Sacred Congregation for Propagating the Faith to Persia, and was subsequently recalled for just reasons, reported that he had translated the first part of the New Testament from the Greek language into Persian, and that this version, at the express order of the British University of India, had been published at public expense; and that it had been received with such favor that, within the space of two months, 1200 copies had been sold, among Muslims alone. He also dared to submit this work to the Holiness of Our Lord Pope Pius VII, and declared his intention of publishing the second part of the same Testament translated into the Persian language, which he affirmed was almost completed. In this undertaking, the fact that Sebastiani entered into association with heretics, and was influenced by their deceitful schemes in so important a matter, is all the more reprehensible, because, being a Roman priest and formerly an official of the Sacred Congregation for Propagating the Faith, he ought to have held the regulations of the Index in greater esteem than any other, and should have abstained from violating the prohibitions issued by the Holy See on this matter. He is also deserving of censure for having completed his version not from the Vulgate text, which is authentic for the Latin Church, but from the Greek text, to which he, and the faithful of those missions to whom it was entrusted, belong. In particular, his audacity in inserting the name Joachim in the first chapter of the Gospel of St. Matthew is to be considered reckless.

[*Latin ed. p. 641*]

Document 641: The eighth cause for scandal to be avoided: because, when dealing with the Word of God, not even a syllable may be added or taken away, according to that which is written in the Apocalypse, chapter 22, verse 18: "For I testify to every one that heareth the words of the prophecy of this book: If any man shall add to these things, God shall add unto him the plagues written in this book." However, the reason given for this interpolation is a great scandal to be avoided; the interpolation itself is worse, and if the divine interpreter, or rather, the Holy Spirit, had not foreseen this grave scandal, or had not wished to avoid it. Furthermore, the liberty that he dared to claim for himself in this place, where it could so easily be detected, is evidence of his fear that he might also be adding, subtracting, and altering things in other places. Indeed, this can easily

Translated by churchlatin.ai, a product of Boyne Archives

be argued both from the benevolent regard with which he was received, and from the favor with which the so-called "biblical" society treated him, with which he seems to be in communication. For it cannot be presumed that he was ever so highly esteemed, unless he had adapted himself to fulfill the fundamental rules of that society, of which the principal one is to completely disregard that which has constituted a source of controversy among the various Christian communions, and which distinguishes the Catholic, Apostolic, Roman religion from the other false sects. Therefore, it has been decreed that this version of Sebastian be given to those who speak the Persian language, so that they may examine it carefully and so that a reasonable condemnation of it may subsequently emerge. But since this examination will take a long time, in order to prevent the progress of the error in the meantime, it seemed fitting to the Most Holy Congregation, and to other Apostolic Vicars and Prefects of these "missions" in Persia, Armenia, and other parts, to urge everyone to exert their zeal in protecting the faithful from receiving or reading these new versions, which the so-called "biblical" society is spreading, and especially from the writings of this priest, Sebastian. Acts, vol. IX, p. 416.

[*Latin ed. p. 642*]

642 Regarding documents concerning biblical societies, which could acquire greater authority, especially if they have a former official of the Holy Congregation dedicated to spreading the Christian name, Your Eminence is instructed to carefully examine this matter for the Holy Congregation, so that you may express your opinion on this and other matters that may arise, and to suggest means that seem more suitable for promoting the progress of biblical societies in these regions. I have communicated this to Your Eminence concerning this matter, and I await your response, praying that the Lord may grant you all blessings.

NOTE. – Whether any judgment has been rendered concerning the Persian New Testament version adorned by Sebastian, it is entirely unknown to us. It is certain that the name Joachim (MATTH., 1, 11) was also inserted by him, with the same audacity, into the Latin version, which was published in London in 1817, and which was prepared from the Greek text under no better auspices. He died in Rome, on September 5, 1843.

DOCUMENT NUMBER NINE. FROM THE ENCYCLICAL LETTER OF POPE LEO XII, OF MAY 5, 1824, WHICH BEGINS "UBI PRIMUM."

What more can be said? The wickedness of our enemies has progressed to such an extent that, beyond the flood of pernicious books inherently hostile to religion, they strive to pervert even the sacred Scriptures, which have been divinely given to us for the edification of religion itself. You know, venerable brothers, that a certain society, commonly called a biblical society, is boldly spreading throughout the world, which, despising the traditions of the holy Fathers, and contrary to the well-known decree of the

Translated by churchlatin.ai, a product of Boyne Archives

Council of Trent, devotes all its efforts and means to translating, or rather perverting, the Scriptures into the vulgar languages of all nations. From this, there is great reason to fear, as has already been noted, that...

[*Latin ed. p. 643*]

Document Ninth, 643, and in other instances, "a perverse interpretation of the Gospel of Christ, where the Gospel becomes the work of a man, or, what is worse, of the devil" (Hieron. in chapter 1, letter to the Galatians). To avert this pestilence, our predecessors had published many constitutions; and in the final days of the blessed memory of Pius VII, two Bulls were issued, one to Ignatius, Archbishop of Gnesen, and the other to Stanislaus, Archbishop of Mogilev, in which many passages are carefully and wisely extracted from divine writings and from tradition, as it shows how greatly this invention is harmful to faith and morals. We also, for our apostolic office, urge you, venerable brothers, to strive in every way to remove your flock from these deadly pastures. Argue, implore, insist opportunely and persistently in teaching, so that your faithful, adhering firmly to the rules of our Congregation, may be persuaded that, "if the sacred Bible is permitted to be read widely in the vernacular language without discrimination, more harm than benefit will arise from it, due to the rashness of men." This truth is demonstrated by experience, and, besides other fathers, St. Augustine declared it with these words: "For heresies and certain perverted doctrines are not born, and do not drag souls down into the depths, unless it is the case that the good Scriptures are understood poorly, and that what is understood poorly in them is also asserted rashly and boldly" (Tractate 18, chapter 5, John). Indeed, venerable brothers, with regard to this matter, the Society leaves nothing unattempted to fulfill its impious designs. It not only publishes its versions in print, but also boasts of spreading them among the people through every city; moreover, it seeks to entice the minds of the simple, as it strives to sell them, as if offering them a treacherous gift, etc.

[*Latin ed. p. 644*]

644 Documents concerning Biblical Societies. DOCUMENT FROM GREGORY. SIXTEENTH ENCYCLICAL LETTER TO ALL PATRIARCHS, PRIMATES, ARCHBISHOPS, AND VENERABLE BISHOPS. GREETINGS AND APOSTOLIC BENEDICTION. 1. Among the principal machinations by which the non-Catholics of various names seek to undermine the Catholic faith and to turn its friends away from sanctity, the biblical societies hold a prominent place. These societies, which were first instituted in Anglia, and which, for a long time now, have spread widely, appear to conspire, as if in a league, to publish the books of the Divine Scriptures in vulgar languages in great numbers, and to disseminate them among both Christians and non-believers without distinction, and to entice everyone to read them. Thus, as Jerome lamented in his own time, and as garrulous

Translated by churchlatin.ai, a product of Boyne Archives

people, and deluded old men, and verbose sophists, and all people, if they only know how to read, are made to share in the art of understanding the Scriptures without a teacher; indeed, what is almost absurd, and almost unheard of, is that even the common people of the non-believers are not excluded from this kind of understanding. 2. But you, venerable brothers, are not unaware of the purpose to which these societies tend. You know well that the Apostle Peter, the prince of the Apostles, after praising the epistles of Paul, stated that there are certain things in them that are difficult to understand, which corrupt the unlearned and unstable, as is found in 1 Epistles to Paulinus, § 7, which is Epistle LIII, volume I, of the works of St. HIBRON., edition of Vallarsius.

[*Latin ed. p. 645*]

Document 645. The remaining Scriptures, leading to their own destruction: and immediately adds: "Therefore, brothers, be watchful, lest you be led astray by the error of the foolish and fall away from your own firmness." Hence, it has been made clear that, from the very beginning of the Christian name, this was the proper art of heretics, to reject the word of God, and to reject the authority of the Catholic Church, either by altering the Scriptures with their own hands, or by twisting the meaning of their passages. And it is not unknown that how much diligence, or wisdom, is required to faithfully translate the words of the Lord into another language; so that it is easier for very grave errors to be inserted into those versions by biblical societies, whether through the imprudence or the fraud of interpreters; which errors, furthermore, are long concealed by the multitude and variety of those versions, to the detriment of many. Indeed, these societies are of little or no interest, if men who read the Scriptures translated into vulgar languages are led to other errors rather than to others; provided that they gradually become accustomed to claiming for themselves the right to judge the meaning of the Scriptures, and to despise the divine traditions preserved in the Catholic Church according to the teaching of the Fathers, and to reject the very magisterium of the Church.

2 3. These same biblical associates ceaselessly slander the Holy Church and this See of Peter, as if for many centuries it has sought to keep the faithful people away from the knowledge of the sacred Scriptures; whereas, in fact, there are many and most evident documents showing the singular effort with which the highest Pontiffs, and other Catholic prelates under their guidance, have used in recent times to instruct the Catholic peoples more deeply in the words of God written and transmitted. In the first place, belong the decrees of the Council of Trent, by which, not only were Bishops commanded, but also... [The text is incomplete here.]

[*Latin ed. p. 646*]

646 Documents concerning biblical societies were issued, granting them

Translated by churchlatin.ai, a product of Boyne Archives

the authority to more frequently proclaim the sacred Scriptures and the divine Law throughout the dioceses; but this was further expanded by the institution of the Lateran Council, providing that in each church, or cathedral, or collegiate church of important cities and towns, there should be a theological lecture, and that it should be delivered entirely to those persons suitable for expounding and interpreting the sacred Scriptures. Concerning this theological lecture, in order to establish its norms according to the sanction of the Council of Trent, and concerning the readings to be given by a canon theologian to the clergy, and also to the people publicly, action was taken in many provincial Synods, as well as in the Council of Rome in the year 1725, in which our blessed predecessor, Benedict XIII, not only summoned the sacred prelates of the Roman province, but also many from among the Archbishops, Bishops, and other Ordinaries of the places, who were in no way subject to this Holy See. Furthermore, the Supreme Pontiff established certain things to this end in Apostolic Letters, which were given specifically for Italy and the adjacent islands. Finally, to you, venerable brothers, who are accustomed to report to the Apostolic See concerning the condition of sacred things in each diocese at the appointed times, it has been made clear from the responses given by us through the Congregation of the Council to your predecessors, or to yourselves repeatedly, that, 2, 3, 4, 5, 6, 7, 8, Session 24, paragraph 4, concerning the decrees of the Lateran Council of the year 1515 under Innocent III, chapter XI, which was included in the body of law, chapter 4, concerning teachers, Trent, session 5, paragraph 1, concerning the decrees; * In the Council of Milan in the year 1595, part I, title concerning theological lectures, Milan V, in the year 1579, part III, title 5, which pertains to the granting of benefices; Acqui, in the year 1585, title concerning canons, and other similar titles; in the acts of the Indiction of the Council of December 24, 1724; the Pastoral Office Constitution, December 13, in the year 1725; from the Constitution of Sixtus V, the Roman Pontiff, January 13, in the year 1595, and the Constitution of Benedict XIV, concerning the Holy Sardinian Synod, December 9, in the year 1740, volume I, bulls of the same Pontiff, and from the instruction which is found in the Appendix to said volume I. 3, 3, 5, 6, 7, 8.

[*Latin ed. p. 647*]

Document 647. In the tenth place, as the Holy See is accustomed to congratulate Bishops when they have theologians appointed who diligently perform their duties in public lectures on sacred literature, and never ceases to encourage and assist their pastoral care, if, in some places, the matter has not yet been successfully implemented.

4. Furthermore, concerning the translations of the Bible into the vernacular languages, it happened many centuries ago that, in various places, sacred prelates sometimes had to exercise greater vigilance, observing where such versions were either read in secret gatherings or were disseminated

Translated by churchlatin.ai, a product of Boyne Archives

more widely by heretics. And to this pertain the warnings and precautions employed by Innocentius III, our predecessor, concerning gatherings of laymen and women, held under the pretext of piety, and for the purpose of reading the Scriptures, in the diocese of Metensi; as well as the specific prohibitions of vernacular Bibles, which we find, either in Gallus shortly thereafter, or in Hispania before the 16th century.

But greater prudence was required later, when the Lutheran, Calvinist, and other non-Catholic heretics, daring to attack the immutable doctrine of the faith with an astonishing variety of errors, left nothing undone to deceive the minds of the faithful through perverse interpretations of the sacred Scriptures, and through new translations of these Scriptures into the vernacular, which were disseminated with great zeal, aided by the recently invented art of printing. Therefore, in the regulations drawn up by the Fathers chosen by the Council of Trent, and approved by our predecessor, Pope Pius IV, the following were established:

1. In the three decrees given to the people of Metensi, and to their Bishop and Chapter, as well as to the Abbots of Cistereienses, Morimundensem, and de Cripta, which are found in letters 141, 132, book I; and in letter 235, book III, in the edition of Balutius.

2. In the Council of Toulouse, in the year 1229, canon 14. As testified by Cardinal Paecco in the Council of Trent (in Pallavicium, *Storia del Concilio di Trento*, book VI, chapter 12).

3. In the constitution of Dominic, March 24, 1564.

4.

[*Latin ed. p. 648*]

Documents 648 concerning Biblical Societies, and the list of prohibited books, which were previously presented, contain a general rule stating that Bibles printed in the vernacular language should not be permitted to anyone except those for whom their reading would be judged to be beneficial for the increase of faith and piety. To this same rule, a new caution was subsequently added, strengthened by the authority of Benedict XIV, declaring that the reading of vernacular versions should be permitted only if they have been approved by the Apostolic See, or if they have been published with annotations taken from the holy Fathers of the Church or from learned and Catholic men.

5. Meanwhile, there were some new members of the Jansenist school who, fearing to criticize the very prudent policy of the Church and the Apostolic See, claimed that the reading of Scripture was useful and necessary for every kind of faithful person at all times and in all places, and therefore, no one could be forbidden from it by any authority. However, we consider this Jansenist audacity to be worthy of a more serious censure, as was demonstrated in the solemn judgments that were held throughout

Translated by churchlatin.ai, a product of Boyne Archives

the Catholic world against their doctrines, namely by two revered Popes, namely Clement XI in the Constitution *Unigenitus* of the year 1713, and Pius VI in the Constitution *Auctorem fidei* of the year 1794.

6. Thus, even before the Biblical Societies were established, the faithful had already been warned in the aforementioned Church decrees against the deceit of heretics, hidden under the guise of a desire to spread divine literature among the common people. Moreover, Pius VI, our glorious predecessor, who found that the very societies that were established in his time had grown greatly in benefits, did not abstain from [referring to] rules III and IV of the Index. In addition, to the aforementioned rule IV, a decree from the Congregation of the Index, of June 17, 1757, was added. In the condemnation of Quesnel's propositions, from number 79 to 45. * In the condemnation of the propositions of the Pseudo-Synod of Pistoia, number 67.

[*Latin ed. p. 649*]

Document Number Ten: We have opposed their efforts, first through our Apostolic messengers, then through letters and decrees issued by various Congregations of the Holy Roman Church; and finally, through two letters from the Holy See addressed to the Archbishops of Gnesen and Mogilev. Subsequently, Our predecessor, Pope Leo XII of blessed memory, pursued the same endeavors of those biblical societies in encyclical letters addressed to all the bishops of the Catholic world, dated May 5, 1824, and He did so again, Our most recent predecessor, Pope Pius VIII, in an encyclical letter published on May 24, 1829. We, therefore, who have succeeded Our predecessors in this office, have certainly not neglected to apply ourselves to the same Apostolic concern, and among other things, We have taken care to remind the faithful of the rules previously established regarding vernacular translations of the Scriptures.

7. And now, venerable brothers, We are exceedingly pleased that, spurred by your piety and prudence, and confirmed by the aforementioned actions of Our predecessors, you have not neglected to remind everyone when it was necessary. First, through a letter from the Congregation for the Propagation of the Faith to the Apostolic Vicars of Persia, Armenia, and other regions of the East, dated August 3, 1916, and through a decree concerning all such versions, issued by the Congregation of the Index, on June 23, 1817. By this general decree, the following work was prohibited: "A concise history of the operations of the British and Foreign Bible Society, with an index of the subjects pertaining to the same: Hear the words of God from God (John, VIII, 12), Naples, at Agnello Nobile, bookseller-printer, Strada Santabrigida n. 27, 1817." The same decree (June 23, 1817) also prohibited all translations of the Bible into any vernacular language, unless they had been approved by the Apostolic See, or published with annotations taken from the Fathers of the Holy Church or from learned

Translated by churchlatin.ai, a product of Boyne Archives

and Catholic men, according to the decree of the Sacred Congregation of the Index, June 13, 1757. Given in Rome, on July 12, 1817.

* On June 1, 1816.

* On September 4, 1817.

* These rules are contained in the warning appended to the decree of the Congregation of the Index, January 7, 1836, which We reproduce here: "It having been reported to the Holy Congregation that the sacred books of the Bible have been printed in the vernacular in some places, and that the salutary laws concerning this matter are not being observed; and it being feared that, especially in these times, those who are wicked may, through conspiracy, insidiously introduce errors, disguised under the appearance of divine eloquence..."

[*Latin ed. p. 650*]

650. Documents concerning the Catholic Biblical Societies, so that they might be guarded from the snares which were being laid for them by the Biblical Societies. From these endeavors of the bishops, joined with the solicitude of the Supreme Seat of Peter, and with the blessing of the Lord, it came to pass that certain imprudent Catholics, who had favored the Biblical Societies without due caution, suddenly perceived the fraud, and withdrew from them, and the remainder of the faithful people remained almost entirely free from the contagion which threatened them. 8. In the meantime, the Biblical sectaries were held by the hope that they would gain praise, and that they would induce others, even those who were not Christians, to profess the name of Christ, by reading the sacred books, published in the vulgar tongue, in great numbers. These copies were distributed, and even forced upon those who were unwilling, by missionaries or agents appointed by them, throughout their regions. But those who sought to spread the Christian name contrary to the rules instituted by Christ Himself, accomplished almost nothing, except that they sometimes created new obstacles for Catholic priests who, sent by this Holy See, spared no labors, to bring forth new sons of the Church through the preaching of the Word of God and the administration of the sacraments, and who were ready even to shed their blood amidst the most exquisite torments, for the salvation of these souls and in witness to the faith. 9. Now, among those sectaries, their expectations were frustrated, and with a greatly saddened spirit, they reflected on the immense sum of money which they had hitherto expended on the publication of their books. Therefore, the same Holy Congregation recalled to memory what had been decreed previously: namely, that vernacular versions of the Bible are not to be permitted, unless they have been approved by the Apostolic See, or published with annotations taken from the Holy Fathers, or from learned and Catholic men (from the decree of the Holy Congregation of the Index, June 15, 1757, in addition to the Index); furthermore, they must adhere entirely to what was established by Rule IV

Translated by churchlatin.ai, a product of Boyne Archives

of the Index, and subsequently by the mandate of His Holiness Clement VIII, established for that purpose.

[*Latin ed. p. 651*]

Document 10, which has yielded no fruit despite its dissemination, has revealed certain individuals who have devised schemes, arranged in a new order, to capture the minds, primarily of Italians and of the citizens of our own City, through a sort of initial assault. Indeed, from the news received and documents examined, it has become clear that several individuals from various sects in Neo-Eboraci in America met last year, and on the eve of the Ides of June, established a new society called the "Christian Federation," and others, and still others, from every nation, as members, or established in its aid, with the common aim of instilling religious liberty, or rather, a study of indifference regarding religion, among Italians and Romans, and others. They confess that, for many centuries past, the institutions of the Roman and Italian peoples have held such weight, that nothing of great importance has occurred in the world without having been brought about by this venerable City; which, however, is not derived from the Lord who governs here according to established order, nor from the supreme See of Peter, but from certain remnants of the ancient Roman domination, which, as they claim, persist in the power usurped by our ancestors. Therefore, since their aim is to grant all peoples the freedom of conscience, or rather, of error, from which, as they say, political freedom and public prosperity also flow, according to their understanding, they seem to see nothing they can achieve unless they first make progress among the citizens of Italy and Rome, and then, through their authority and influence, they will greatly benefit the remaining peoples. And they are confident that they will easily achieve this, since there are so many Italians living in various places throughout the world, and from there they send a considerable number back to their homeland; and among these, not a few are already spontaneously inflamed with a desire for new things, or corrupted by their morals, or afflicted by poverty, and who are willing to give their name to the society, or at least to sell their services to it, for a price.

[*Latin ed. p. 652*]

65.2 Documents concerning biblical societies are alarming. Therefore, they have directed their efforts so that, through their agencies, vulgar and corrupt Bibles are brought from all sides and distributed secretly to the faithful; and so that, at the same time, the worst of books and pamphlets, composed by them or translated into the vernacular from other authors, are distributed, with the intention of alienating the minds of the readers from the Holy Church and from this Holy See; among these, the *History of the Reformation* written by Merle d'Aubigné, and the *Memoirs concerning the Reformation among the Italians* by John Cric are particularly

Translated by churchlatin.ai, a product of Boyne Archives

noteworthy. Furthermore, considering the entire genre of books to which these belong, one can foresee what the future holds, as can be seen from the provisions in the society's statutes concerning the selection of books for certain groups, namely, that never should more than two members of the same religious sect be present at these gatherings.

10. When these matters were first brought to our attention, we could not but be deeply saddened to learn that, not only in places far from the City, but even near the very center of Catholic unity, the safety of the most holy religion is being threatened by sectaries. For, although it is not to be feared that the See of Peter will ever fail, in which the impregnable foundation of the Church, established by Christ the Lord, is placed, nevertheless, we are not to cease from defending its authority; moreover, we are admonished by the highest office of the Apostles to use the most serious measures, which the Divine Shepherd requires from us, concerning the increasing presence of tares in the field of the Lord, should any have been sown by the enemy while we are sleeping, and concerning the blood of the entrusted sheep which may perish through our fault from this source.

11. Therefore, after consulting with several Cardinals of the Holy Roman Church, and after carefully and thoroughly considering the entire matter, and with their agreement, we have decided to write this letter to you all, venerable brothers, in which we...

[*Latin ed. p. 653*]

Documentum Decimum 653: Cunctas supradictas societates biblicas, quae dudum a nostris predecessoribus reprobantae sunt, Apostolica auctoritate rursus condemnamus; et nostri pariter supremi Apostolatus nomine condemnamus memoratam novam societatem Christiani Foederis, constitutam anno superiore in Neo-Eboraci, et alia eiusdem generis sodalitia, si quae iam ei accesserint aut in posterum accedent. Hinc notum omnibus sit, gravissimi coram Deo et Ecclesia criminis reos fore illos omnes qui alicui eadem societatum dare nomen, aut operam suam commodare seu quomodocumque favere praesumpserint. Confirmamus insuper et innovamus auctoritate Apostolica super memoratas praescriptiones iamdiu editas super editione, divulgatione, lectione et retentione librorum sacrae Scripturae in vulgares linguas translatorum: de aliis vero cuiusque scriptoris operibus in communem notitiam revocatum volumus, standum esse generalibus regulis et decessorum nostrorum decretis, quae indici prohibitorum librorum praeposita habentur; atque adeo non ab iis tantum libris cavendum esse qui nominatim in eodem indice relati sunt, sed ab aliis etiam, de quibus in commemoratis generalibus praescriptionibus agitur.

12. Vobis autem, venerabiles fratres, utpote in nostrae sollicitudinis partem vocatis, commendamus in Domino vehementer, ut Apostolicum iudicium, et mandata haec nostra concreditis pastorali procurationi vestrae

Translated by churchlatin.ai, a product of Boyne Archives

populis annuntietis et explicetis pro loco et tempore, fidelesque oves a praedicta societate Foederis Christiani, ceterisque eidem auxiliantibus, nec non ab aliis biblicis societatibus, atque ab omni cum illis communicatione avertere connitamini. Iuxta haec vestrum quoque erit tum biblia in vulgarem linguam conversa, quae contra supradictas Romanorum Pontificum sanctiones edita fuerint, tum alios quoscumque proscriptos damnatosve libros e fidelium manibus evellere, atque adeo providere ut fideles.

[*Latin ed. p. 654*]

654 Concerning those societies devoted to the Scriptures, let it be made known to them, and let this be established by your authority, that the kind of publications they produce must be wholesome and beneficial; those which they deem harmful and deadly must be rejected.

Meanwhile, venerable brothers, strive daily to increase, both through yourselves and through the pastors of souls, and other suitable men, in each diocese, the preaching of the Word of God; and be vigilant, especially over those who are destined to give public readings from the Holy Scriptures, that they diligently perform their duty, and that under no pretext whatsoever do they dare to interpret or explain the sacred writings in a way contrary to the tradition of the Fathers, or contrary to the sense of the Catholic Church.

Finally, just as it is the duty of a good shepherd not only to protect and nourish those sheep who remain with him, but also to seek out and bring back to the fold those who have strayed far away; so too, it will be the duty of your and our ministry to devote all the energies of pastoral care to those who have been seduced by such sects, and by those who propagate harmful books, that, through the grace of God, they may recognize the gravity of their sin, and strive to expiate it through the remedies of salutary penance; and indeed, those who have seduced them, and especially the very teachers of impiety, should not be abandoned to the care of priestly solicitude; for although their wickedness is greater, we must not cease to strive for their salvation, in whatever ways and means we can.

13. Furthermore, venerable brothers, we demand from those of your order who govern churches located in Italia, or in other places where Italians frequently reside, especially in the border regions of Italia, or in ports and harbors through which there is frequent traffic to Italia, a particular and more intense vigilance against the snares and machinations of members of the Christian sect. For it is the intention of these sectaries to achieve their aims there.

[*Latin ed. p. 655*]

Document Number 10, Paragraph 655: It is necessary that you, and especially the bishops, with eager and constant zeal, cooperate with us in

Translated by churchlatin.ai, a product of Boyne Archives

devising plans to counteract the machinations of these individuals, with the Lord's help, so that they may be frustrated.

14. We have no doubt that our efforts, and yours, will be aided by the protection of the civil authorities, especially the most powerful princes of Italy, first, because of their singular dedication to preserving the Catholic religion; and second, because it is not hidden from their prudence that the public good is greatly involved, so that the aforementioned machinations of the sectarians may be rendered ineffective. For it is clear, and has been confirmed by the experience of past times, that there is no clearer way for peoples to be drawn away from fidelity and obedience to their princes than through indifference in religious matters, propagated by the sectarians under the name of religious liberty. And these new members of the Christian Federation do not conceal this: although they claim to be detached from inciting civil sedition, they nevertheless assert that each individual has the right to interpret the Scriptures according to his own judgment, and that, by spreading this in the Italian people, they will, as it were, spontaneously achieve both the liberty of conscience and the political liberty of Italy.

15. But above all, let us raise our hands together to God, venerable brothers, and commend our cause, and that of the entire flock, and of the Church itself, with all that we can, through fervent prayers; let us also invoke, with the most earnest supplication, the Apostle of the Apostles, Peter, and other Saints, and especially the Most Blessed Virgin Mary, to whom it was given to destroy all heresies throughout the world.

16. Finally, as a pledge of our most ardent charity, we impart the Apostolic Blessing to you all, venerable brothers, and commend to your care the clergy and the laity.

[*Latin ed. p. 656*]

Appendix 656 to Volume IX, which we impart with heartfelt affection to those faithful readers. Given in Rome, near St. Peter, the day after the ninth of May, 1834, in the fourteenth year of our pontificate. GREGORY PP. XVI. APPENDIX TO VOLUME NINTH. Concerning the Sacred Congregation of the Council: Regarding the manner in which it proceeds and the method of acting employed by it, and concerning the presentation of cases before the Sacred Council Congregation, we have often had to refer to the circumstances of the facts, which are strictly related to the manner of acting of the Sacred Congregation, or to the method of proceeding before it. At times, in the accounts of certain cases, we have narrated that the Sacred Congregation, after the initial prayers offered, has decided whether or not to proceed with the case, and subsequently, the case has been placed on file or dealt with through summaries of prayers. At times, discussion has taken place concerning the agreement or reformation of doubts, more frequently concerning the information and opinion of the Ordinary, so that it would be clear what was intended by such words, or what action they entailed.

Translated by churchlatin.ai, a product of Boyne Archives

Therefore, we believe that this will be useful to at least some of our readers, when we briefly explain the manner of acting of this Sacred Congregation, and also the method of proceeding before it. We know that we are not telling experts in canon law anything they do not already know; but we believe that it will be useful to those who, due to more important affairs of the Church, do not have the opportunity to devote themselves to such studies, to understand the significance of these writings, and to know more intimately how they are applied in the variety of cases. To this end, it is necessary to preface this with a few remarks about the history of the Sacred Congregation of the Council, which strictly pertain to the subject matter. 1. We promised this in the same volume, page 204, and we fulfill this promise with this Appendix.

[*Latin ed. p. 657*]

Regarding the manner of acting in the Holy Council, its origin must be recalled from the very Council of Trent, which, in the decree concerning the reception and observance of the decrees of the Council (Session 25, continuation), established the following: "If any difficulty arises in the reception of these decrees, or if anything should occur which requires a declaration that 'it is not believed,' or a definition, besides the other remedies instituted in this Council, the Holy Synod trusts that the Most Blessed Roman Pontiff will take care, either by summoning those from those provinces in particular from which the difficulty has arisen, or by those whom He may deem suitable for dealing with this matter, or even by the celebration of a general Council, if He judges it necessary, or by any other means that He may deem suitable, to provide for the needs of the provinces for the glory of God and the good of the Church." The execution of this decree was first undertaken by the Supreme Pontiff Pius IV. He himself, in certain decrees issued by his own authority, which begin: "Furthermore, on August 2, 1564, he appointed eight Cardinals who had participated in the Council, to ensure that not only those things which he himself had recently established concerning the reform of the tribunals of the city were observed, but also the decrees of the Council of Trent. However, Pius IV excepted those cases in which doubts or difficulties regarding the execution of the Council's decrees might arise, and ordered that these be referred to himself. It is certain, however, that this exception concerned matters of law, not matters of fact, and therefore it is clear that the power granted to the Congregation at that time was not to interpret the law, but only to administer it. Indeed, from the books of letters and decrees which are preserved in the Secretariat of the Congregation, it is evident that Pope Pius IV, as well as the Supreme Pontiffs Pius V and Gregory XIII, often consulted the Congregation. It is also known that Pius V instructed that the Congregation be able to resolve questions that it considered clear, without any further delegation. Those cases which were considered doubtful should be referred

Translated by churchlatin.ai, a product of Boyne Archives

to His Holiness, as He had previously done. The same was said by Gregory XIII. It is noteworthy that, due to the increasing volume of business which flowed to it from all parts of the world, from the beginning of the year 1565, four Cardinals were added to the eight who constituted the Congregation instituted by Pius IV, and it was established that, for the more efficient handling of business, these four Cardinals should more frequently convene from the general body of the Congregation, under the name of a particular Congregation. This particular Congregation, on May 8, 1576, was declared by Gregory XIII to be able to resolve cases already decided by the general Congregation, and also those cases which, in the opinion of all, should be decided. If, however, one Cardinal dissented...

[*Latin ed. p. 658*]

658. A particular matter was to be referred to the general Congregation, and its opinion was to be presented to it. Pope Sixtus V confirmed the authority of the Congregation in the constitution "Immensa aeterni," in which, concerning the Congregation for the execution and interpretation of the Council of Trent, he decreed: "Giving thanks to God the Father of mercies, who, in the Œcumenical Council of Trent, having diffused the light of the Holy Spirit, made the Catholic truth manifest to all, refuted the heresies of our time, restored morals and discipline, and desiring that the decrees of that same Council be observed by all, and since it pertains only to the supreme authority of the Roman Pontiff to convene, confirm, interpret general councils, and to see to it that they are observed everywhere, and to command: "§ 1. We reserve to Ourselves the interpretation of those decrees which pertain to the dogmas of the faith. However, We grant to the Cardinals, Prefects of the interpretation and execution of the Council of Trent, the faculty of interpreting, if, in those matters which concern the reform of morals, discipline, and ecclesiastical judgments, and other similar statutes, doubts or difficulties should arise, always consulting with Us. And since it was decreed by the same Council of Trent that provincial councils should be held every third year, and diocesan councils annually, the same Congregation will provide for the implementation of this, as far as it concerns those to whom it pertains. Furthermore, it will order that the decrees of the provincial councils, wherever they are held, be sent to it, that it may examine and consider them. Moreover, the Patriarchs, Primates, Archbishops, and Bishops (whom We have ordered by Our sanction to visit the shrines of the blessed Apostles at a certain appointed time) will present their requests, and the Congregation itself will provide for what it can, according to the norms of charity and justice; it will refer greater matters to Us, so that We may, as far as it is pleasing to the Lord, grant favors to Our brothers the Bishops. Also, from these same prelates, the Congregation will receive an account of the state of morals and the discipline of the clergy and the people entrusted to their care in the churches, of the execution of

Translated by churchlatin.ai, a product of Boyne Archives

the decrees of the Council of Trent, both in general and especially in the discharge of their duties, of pious customs, and of the progress of all in the way of the Lord; and it will give them letters, according to the prescribed formula, as a testimony of the visitation of the shrines of the Apostles which they have made. The Congregation shall also have the authority to promote the reform of the clergy and the people, not only in the City and in the temporal ecclesiastical state, but also throughout the Christian world, in those matters which pertain to the propagation of the divine cult, the arousing of devotion, and morals.

[*Latin ed. p. 659*]

Concerning the manner of acting in the Sacred Congregation of Rites: "That the Christian people, in accordance with the prescription of the same Council, may be prepared, and that, in these difficult and troubled times, the necessary measures may be confirmed, so that we may feel the power of divine mercy in us, and avoid just anger and reprimand." With the passage of time, the authority of the Congregation of Rites was better explained. The office of the Secretary became very important, and those are called to it who excel in the knowledge of both laws and in prudence in dealing with matters. Among these, for the sake of honor, we mention Prosper Fagnani, Prosper de Lambertinis, who, having been raised to the Chair of St. Peter, assumed the name of Benedict XIV, and Cardinal De Petra. As the authority of the Secretaries grew, the particular Congregation of the Four Cardinals began to be less frequent, and for more difficult matters, either a particular Congregation was appointed by the Pope, or theologians and canonists were consulted, who would express their opinions. Then, matters of lesser importance were separated from the more serious ones, and indeed, the greater causes were briefly explained to the Fathers in writing. The Fathers were allowed to present their arguments, and the Secretary would sometimes note, for the sake of record, matters of law and, especially, of the practice of the Sacred Congregation. The causes began to be printed in 1695: but only in 1718, when Prosper de Lambertinis assumed the office of Secretary, were the documents presented to the Fathers so reformed, that they contained the principal points of the arguments, and showed the resolutions of the Congregation in similar cases, as well as the opinions of theologians and canonists. He himself took care to have made that authentic collection of resolutions, which came to be known as: "Thesaurus resolutionum," and which is widely used as an example, and which differs greatly from the books of decrees which are kept in the Secretariat of the Sacred Congregation, as has already been said in Vol. I, page 67. These things concerning the past are sufficient. Now it is proper to know who are the members and officials of the Sacred Congregation in the present. The members are the Cardinals whom the Pope chooses. From the time of Pius IV, who, as we said, appointed eight Most Eminent Fathers, there are

Translated by churchlatin.ai, a product of Boyne Archives

now 36 in number, among whom some are counted who reside outside the Roman Curia. Of these, one is appointed by the Pope as Prefect. All have a vote which they call "decisive." Present is the Cardinal Prefect, and a Bishop or Archbishop, to whom the office of the Secretary is entrusted by the Pope. It is his duty to propose matters for each Congregation and to report to the Pope, and to write the decrees of the Sacred Congregation, which, without his and the Prefect's signature, are completely invalid.

[*Latin ed. p. 660*]

Appendix to Volume IX, 660. The Secretary is assisted by a Sub-Secretary and an Auditor. The former oversees all business and advises on how it should be handled; the latter works on cases to be presented before the Holy Congregation, and writes a report on them in a document, which is called, by official designation, the "relation." He either draws this report from the pleadings of the advocates, or he writes it based on the documents presented by the parties, and he supplements it with the rules of law, and with the decisions of the same Holy Congregation, and sometimes even of the Roman Rota, which are relevant to the matter. Furthermore, the Auditor is the head of the study, to which are admitted priests or clerics who, having completed their studies of both civil and canon law, gather there to practice in the practical application of canon law. From this, it is clear how important the Auditor's role is. Therefore, a priest is chosen for this position who not only possesses knowledge of ecclesiastical and civil law, but who is also distinguished by the title of Advocate and is highly experienced in the practice of both forums. These matters pertain to the *MODUS AGENDI* of the Holy Congregation to which we now turn. When a petition or any other written document is presented to the Congregation, it is immediately and carefully noted in the registry, and then given to the Sub-Secretary. This person, chosen among the most skilled in canon law, examines the matter; he determines whether it falls within the competence of the Holy Congregation, and, if the Holy Congregation can indeed act upon it, he decides how it should be handled. If what is requested is already "in the style of the Congregation," meaning that it follows the established norms for its presentation and resolution, without any need for further deliberation or contention, then he presents it briefly to the Prefect and Secretary, with whom he consults, or he presents it in the full Congregation, and an immediate response is given, which is then included in the body of the letter that is sent in response to the petition. The Secretary has many powers in these matters. If the petitions contain requests for grace, because these matters must be expedited with a solemn form of cautions and clauses, then, as is done with other ordinary matters, they are handled separately, and separate decrees are issued in accordance with the discipline of the Holy Order. These are usually referred to the Pope, and the Secretary refers them to him, and presents them in a decree

Translated by churchlatin.ai, a product of Boyne Archives

with the formula "from the audience of the Most Holy." For requests that require a more thorough investigation and discussion, they are handled in the same manner as other ordinary matters. Letters are written to the Ordinary of the diocese to which the petitioner is subject, in which he is requested to provide what is necessary or relevant to the matter; after he has heard the relevant parties, if it appears that the matter should be expedited, those who have an interest are notified.

1. "De stylo S. Congregationis" refers to matters that follow the established norms and procedures of the Holy Congregation, from which they are presented and resolved without any need for further deliberation or contention.

[*Latin ed. p. 661*]

Concerning the manner of proceeding in the Sacred Congregation, after all the elements have been collected which are necessary and suitable to the appearance of the matter, the case is presented in the meeting. Now, what the meeting is called must be said. This meeting was instituted by the Most Eminent Cardinal Prefect Prosper Caterini, a most distinguished and worthy man, who also presides over the Sacred Congregation today. On each Saturday morning, the Secretary and the Under-Secretary convene with him. There, they discuss each petition presented to the Sacred Congregation during the week, and all other matters which it is necessary to resolve, and deliberation is held on what counsel should be given regarding each matter. If any elements are lacking, either those which would allow the matter to be presented in the *Folio* or through a *Summary of Petitions*, or if the matter is of such a nature that it seems more prudent to pass it over in silence, it is either rewritten, or read again, or postponed, or it is determined that it is not necessary to proceed. These procedures are subject to the condition of the present state of affairs. Indeed, it often happens that the state of affairs changes, or that petitions are presented again, and that documents and information from the Ordinary are added to the petitions; and all of these things are such that they demonstrate the necessity of presenting and resolving the matter. You have an example of this in the case of the removal from the parish, reported in Volume IX, page 32, from which you will see that several books of Aloysius were presented to the meeting and it was decided to postpone them, before the case was presented before the full Congregation through a *Summary of Petitions*. Therefore, if there are matters that can be resolved immediately in the meeting, they are resolved. If the matter is more serious and requires a somewhat more thorough investigation, but it is also a matter that is not entirely grave, it is referred to the full Congregation through a *Summary of Petitions*. If the matter is of considerable importance, a decree is made "to be placed in the *Folio*" and it is written to the Bishop to set a deadline for presenting his further rights before the Sacred Congregation. What a

Translated by churchlatin.ai, a product of Boyne Archives

Summary of Petitions is, has been described in Volume I, page 13. Indeed, it is nothing other than a brief report of the petitions, which is usually made by the Secretary in the full meetings, with all matters of law and fact carefully, but strictly, explained. Indeed, from the beginning of the Congregation, it was observed that some cases required more information, while others could be resolved more easily and were usually handled by the Congregation of Four Cardinals. Over time, it became customary to present only allegations in the earlier meetings, and for the Secretary to provide a fuller explanation. A greater difference arose when larger cases began to be presented in the *Folio*: indeed, all those which were not described in the *Folio*, but which were to be immediately defined by the Secretary in the meetings, were presented.

[*Latin ed. p. 662*]

Appendix 662 to Volume IX states that, through summaries of petitions, matters were not only handled in a summary manner, but often contained important considerations. However, among these, there were sometimes matters for which some knowledge of facts and law was necessary. Summaries of petitions began to be printed in the year 1847, but their resolutions are not recorded in the treasury. Furthermore, there is no fixed and certain rule regarding the causes for which summaries of petitions are used. The matter depends on the judgment of a prudent assembly. These causes are usually placed on file, and until now, no similar resolution exists: that is, in cases where the interpretation of the Council of Trent or of some Pontifical Constitution is directly involved, or in cases where the parties are in dispute: summaries of petitions are used to refer to minor matters, or to those questions in which the meaning of the law is clear from several resolutions of the Holy Congregation, or when there is a risk of delay, or finally, when prudence suggests that a judgment should be avoided and the matter kept secret. This is the manner in which the Holy Congregation proceeds. It remains to say: ON THE METHOD OF PROCEEDING BEFORE THE SAME HOLY CONGREGATION. As soon as the decree is issued by the Secretary, whether the matter is to be decided through a summary of petitions or placed on file, all documents relating to the matter are brought before the Auditor. Regarding the causes that are dealt with through summaries of petitions, it should be noted that no doubt is raised in these cases, and advocates are rarely used. However, if the parties wish, they can distribute their arguments to the fathers, and they are admitted "for information," as in cases that are treated in due order of law, of which we will speak shortly. The causes in which a decree is issued are placed on file, whether they are treated economically or in due order of law. In the year 1836, it was introduced that, if the parties are unable to bear the expenses of a formal trial, causes concerning the validity of marriage should be decided by the opinions of a theologian and a canonist, together

Translated by churchlatin.ai, a product of Boyne Archives

with the opinions of a defender of the bond, who is appointed ex officio. Today, all such causes are proposed in this manner, in which, in order to avoid the expenses of litigation, the parties have presented the reasons for their case to their Bishop, and the Secretary, or (which is the same thing) his Auditor, undertakes to diligently examine and explain their rights. This is the economic procedure. 1 1 Understand that today, causes are proposed economically in all cases in which the parties have no means to pay for the services of advocates. This often happens in our times, especially in cases concerning the Italian clergy. However, except for cases of nullity of marriage or nullity of orders (see Volume VI, page 85), the opinions of a theologian and a canonist are not required.

[*Latin ed. p. 663*]

Regarding the manner of proceeding in the Sacred Congregation, Section 663, concerning the treatment of causes, the order of law must be observed. In this case, either both parties, or only one, may appoint an advocate, with or without a procurator, who will prepare a written defense, along with a summary of the documents, and have it printed and distributed to the Fathers. In this case, the Secretary will prepare a synopsis of the defense and will add, ex officio, all that he deems necessary. This treatment is subject to the laws which were promulgated on September 27th of the year 1847, when Cardinal Ostini, and Jerome D'Andrea, at that time Archbishop of Malta, and later Cardinal of the Holy Roman Church, the former performing the duties of Prefect, the latter those of Secretary. We now present these laws, translated in full from the Italian language into Latin.

RULE: To be observed in causes presented before the Most Holy Congregation in order. "Because, besides causes that are purely gratuitous and economic, contentious causes are also often presented before the Sacred Congregation, a method of proceeding has been established from the beginning, which contains something of both the equity of the Sacred Congregation and the rigor of civil tribunals. However, the form of procedure established by our predecessors, which was a safe and reliable practice, has undergone a certain change through a custom that has been attempted, but not accurately described by those forensic authors who have written about the practice of the Sacred Congregations. Thus, it has gradually changed, and has even been completely abandoned by agents and procurators; not without damage to the litigants and to the detriment of the proper administration of justice and order. Therefore, in order to provide against this kind of disruption, while preserving the preceding laws which are in accordance with the existing rules, we, by the authority of the Sacred Congregation, in a meeting held on August 7th of the current year, having been granted this authority by ourselves, and with the prior sanction of the Most Holy Father, which is appended, in the audience of August 9th of the same year, we have

Translated by churchlatin.ai, a product of Boyne Archives

decided and decree the following:

1. "Causes to be presented before the Sacred Congregation, whether directly or in the degree of appeal, shall be treated according to the established order of law, whenever one of the parties, whose interests are at stake, has appointed a legitimate procurator, and has appended: 'Nothing shall pass,' to the records of the Sacred Congregation.

The phrase "Nothing shall pass" was appended by the procurator appointed for this purpose, when the parties wished to ensure that every form of procedure was strictly observed. In the Secret-

[*Latin ed. p. 664*]

Appendix to Volume IX, 664, 2. "In this case, only those advocates who possess legitimate standing before the other tribunals of the City shall be admitted to act."

3. "It will not be permissible to propose any petition before the full Congregation, unless the Ordinary has already been heard, and all those things have been prepared which the Eminent Secretary shall deem necessary, as is wisely stated in another Rule of this Congregation, dated September 6, 1751."

4. "Documents pertaining to the case will be rejected if they have not been submitted to the respective Curia, or if they have not been otherwise duly authenticated, or if they do not bear any indication of authenticity. However, if such documents are presented to the Secretariat, a note shall be made, and it shall be entered in the records."

5. "The Eminent Secretary shall grant permission, by written decree, to the officials of the Secretariat to communicate copies of documents to the parties."

6. "When the Secretary has issued a decree: 'Let the cited passage be placed on the page,' the process of reaching agreement on the point of contention and of proceeding with the Congregation's decision can proceed by means of a citation from one party to the other; in the foot of which citation, before it is transmitted to the other party, the Secretary, or his Auditor, shall specify the day and hour of the hearing at which the parties may appear."

7. "Hearings will be held on Fridays and Wednesdays of each week, except on holidays, according to the notice posted in the Secretariat."

8. "When an agreement (or agreements) has been reached between the parties, it shall be signed by the Secretary or his Auditor; and once it has been signed, it shall be forbidden to change it, unless a new petition is submitted, with regard to the reform of the point of contention, to be discussed in the presence of both parties."

9. "If the parties do not agree, the Eminent Secretary, by order, will prepare a document called the 'liber qui nihil transeat,' which is a record in which the advocate of one party, strictly adhering to the legal form,

Translated by churchlatin.ai, a product of Boyne Archives

writes: 'Let nothing proceed in the case No. N, except by citation to X, the undersigned advocate Z.' Formerly, citations were sent by messengers, as is customary in civil courts. However, since September 20, 1870, messengers of the Italian government's civil tribunals are not permitted to be involved in ecclesiastical matters; therefore, either the official who holds the office of messenger at the Tribunal of the Most Eminent Vicar of the City is used, or (which happens more frequently) the Reverend Secretary, by letters written in his own hand, summons the parties to appear before him for the purpose of reaching an agreement on the points of contention, or to inform them of the day on which the case will be presented. It often happens that the parties find the formula (or formulas), which encompasses the entire question in a concise expression (for this is what the term 'point of contention' means), to be inadequate or incomplete. In such a case, it is permissible to apply the remedy indicated in § 8."

[*Latin ed. p. 665*]

From the manner of proceeding in the Sacred Congregation, paragraph 665: "It is established; with due decree, the right of disputation is reserved to the parties. Therefore, even concerning the reformation of a doubt by me, a separate opinion will be presented before the entire Congregation, on the same day that the principal cause is proposed. 10. "If any of the parties are absent, the doubt will be decided *ex contumacia*; but when an agreement has been reached, it will be notified, together with the decision of the Congregation, according to the norms of law. 11. "The allegations and summaries which the parties wish to use in the presentation of the cause shall be delivered in writing to the Reverend Secretary or Auditor thereof, within a period of thirty days prior to the presentation of the cause (of which the Auditor will give notice ten days beforehand)*. This will be done both to prepare a summary of the arguments to be printed, and so that the Advocates or Procurators may be provided with the means to have them printed. 12. "The allegations shall be written in Latin, according to the current practice; and they will not be accepted unless they are signed by someone from the Advocates or Procurators of the Roman Curia. 13. "As for the doubts, the allegations shall not exceed five folios, and the responses shall not exceed two folios, unless with the permission of the Reverend Secretary, who, for the necessity and gravity of the cause, will readily grant or deny it. If anyone violates this law, he shall be condemned to a fine, which is the penalty that the Sacred Rota commonly inflicts in similar cases, to be paid to the benefit of the Sacred Congregation. 14. "According to what is established in § 4, it is decreed that if, after all the preparatory acts have been completed, any of the contending parties nevertheless remains contumacious, no further delay will be granted: but the Reverend Secretary shall proceed with the resolution of the case, even under a single proposal. 15. "The contumacious party shall be considered to be the one who was

Translated by churchlatin.ai, a product of Boyne Archives

duly summoned to appear, but did not appear, or who did not present any allegations within the prescribed time, or who did not obtain the requested delay. 16. "The Reverend Secretary has the power to postpone the presentation of the cause, either of his own accord or at the request of the parties, even if he had previously set a date for it, with a clause that was absolutely and infallibly binding. However, if the Sacred Congregation decides otherwise, it will be necessary to petition for a new delay before the Sacred Congregation, by means of a memorial. 21. Understand that if the allegations and summaries are to be delivered to the Auditor thirty days before the presentation of the cause, the Auditor must give notice ten days before the month in which that presentation is to take place begins, that is, forty days before the cause is presented. * "Under a single proposal" means that, in the initial presentation of the cause, a clause is added that prevents any further presentation of the cause.

[*Latin ed. p. 666*]

Appendix 666 to Volume IX 17. Ten days before the designated Congregation, a copy of the two allegations (regarding matters of fact and law) will be distributed to the Eminent Fathers: and the number of copies provided will be determined by the Reverend Secretary, with due consideration, as well as by the Under-Secretary. This deadline must be observed also for the exchange of allegations between the parties, as well as for the presentation of new documents. 18. The responses must be submitted by the entire day of the preceding Tuesday at 2 o'clock: and they will not be considered in any way if they are not signed in the same manner as the allegations. 19. Documents and observations, presented by the opposing party after the responses, will be treated as if they had not been presented. 20. The information will be presented to the Eminent Fathers within the days of Thursday and Friday preceding the Congregation. 21. After the resolution of the case, a new hearing must be requested within a period of ten days by application to the Reverend Secretary. 22. If a clause or more is added to the resolution of the Sacred Congregation, a new examination of the case must be requested by the Eminent Prefect, and if he considers that he cannot grant it, the request will be referred to the entire Congregation, with a decree "cited by memorial" to the party in question. In either case, if the requests are admitted, the case cannot be presented again before three months, with the same order of presentation as in the first instance: and if the petitioner yields, he will be held liable for the expenses of this last presentation, in favor of the victorious party. 23. When the resolution becomes final, a copy of the resolution will be given to the victor, who will hand it over to the executor of the Apostolic Letters and decrees of the Holy Congregation, so that the executor may obtain the decree for execution. 24. In the cases discussed from § 14 to 22, and in others, due order is observed in matters of law; the allegation, together with the summary

Translated by churchlatin.ai, a product of Boyne Archives

of one party, is not given to the other, unless the second party, in turn, delivers its own at the same time. This is done justly and with good reason. Indeed, right reason and equity demand that one of the contending parties should not be in a better position than the other. This operation is called by the name of exchange. Consequently, there are approximately seven useful days remaining to prepare the response, to print it, and to deliver it. Congregations are always held on the Sabbath. In the oral presentation, if any difficulties of law remain, they are clarified for the Cardinals; the facts are explained; therefore, it is very useful. The Reverend Secretary constantly admits the presentation of information on the day preceding Thursday, and on Friday he discusses each case with the Auditor, gathering the opinion of the studies. 23.

[*Latin ed. p. 667*]

From the proceedings of the Sacred Congregation of the Council, number 667: "Regarding expenses and repairs, as determined by the decrees of the Congregation, in cases concerning marriage, alimony, assault, and theft, the victorious party shall present a memorandum to the Most Reverend Secretary for approval and regulation, and shall provide the necessary funds according to the laws in force."

Given from the Secretariat of the Sacred Congregation of the Council, on the 27th of September, 1847.

P. CAED. OSTINI, Prefect.

H. Meliten, Archbishop, Secretary.

Thus, we live according to the established procedure before the Sacred Congregation of the Council. And although, due to calamitous times, certain solemnities of the law, which we mentioned in the notes, were suspended from the infamous and detestable day of September 20, 1870, the legal prescription remains the same. Therefore, we deem it fitting to make the origin and force of the decrees, of which we often speak, clear to our readers, as well as to explain several legal formulas.

In each Congregation, ten cases are presented: seven of the more serious cases are placed on the agenda (that is, those involving doubt and to be referred to the treasury), while three less serious cases are handled through summaries of petitions.

Before the deliberation of the Fathers, the Secretary presents a report, in which he expresses his opinion on each case. He alone has a consultative voice (as they call it). Sometimes, not all cases that are placed on the agenda are strictly speaking, cases. It often happens that Bishops, or certain matters pertaining to their dioceses, or general doubts, are presented to the Sacred Congregation for resolution. When this occurs, the Secretary, if there is a matter to be considered, recounts it; if not, he presents the questions to that esteemed Senate, and for each question, he lays before them the

Translated by churchlatin.ai, a product of Boyne Archives

reasons drawn from the law, which suggest either a negative or affirmative response. Then, he presents the doubts concerning these questions for resolution.

The responses of the Sacred Congregation to questions presented in this manner, even if the phrase "in casu" [in this case] is added to the formula of the doubt, are to be considered as general law, at least as long as those same circumstances remain, and until something new occurs in the universal discipline of the Church.

Examples of such doubts and responses are found in Volume I, page 200; Volume III, pages 184, 423, and 626; Volume VIII, pages 107 and 650; and Volume IX, page 105, and elsewhere.

[*Latin ed. p. 669*]

SUMMARY OF THE ACTS CONTAINED IN THIS NINTH VOLUME: Apostolic Letters of His Holiness, Pope Pius IX. Apostolic Letters addressed to the Duke of Salviati, and others of the Italian Catholic Association, page 5. Apostolic Letters addressed to the Archbishop of Turin and other Ordinaries, 6. Apostolic Letters addressed to the Priest Bosco of Turin, 7. Apostolic Letters sent to the Most Reverend Cardinal Régnier, Archbishop of Cambray, on the occasion of the founding of the Catholic University of Lille, 72. Apostolic Letters, by which the equity of Peter Balan in writing history is commended, 239. Apostolic Letters of His Holiness, Pope Pius IX, to the Bishops of the Brazilian region, 338. Apostolic Letters addressed to the Bishop of Linz, by which the faculty is granted to him to allow clerics to freely and lawfully receive certain subsidies, 394. Apostolic Letters, by which the zeal of the Bishop of Vigleban is praised concerning the Diocesan Synod held by him, page 455. Apostolic Letters addressed to the Bishops of the Swiss nation, 576. Apostolic Letters addressed to the President of the Society of Catholic Youth, 581. From the Consistorial Acts. Concerning the Consistory held on January 28, 1876, page 73. Concerning the Consistory held on April 3, 1876, 171. Appointments of Bishops and descriptions of Churches, to which they are appointed, 286. Appointments of Bishops and descriptions of Churches, to which they are appointed, 342. Appointments of Bishops and descriptions of Churches, to which they are appointed, 457. Appointments of Bishops and descriptions of Churches, to which they are appointed, 516. From the Secretariat of Briefs. Apostolic Letters in the form of Briefs, by which indulgences are granted to the Sodality of women founded by the Blessed Virgin of Lapurda, for both sexes, page 8. Apostolic Letters by which the canonical institution of the Faculty of Theology of Poitiers is conferred, 68. Brief of His Holiness, Pope Pius IX, by which the Faculties of Ca-

[*Latin ed. p. 670*]

670 A summary of Gallic military levies, 118. A brief document from

Translated by churchlatin.ai, a product of Boyne Archives

His Holiness Pope Pius IX addressed to the Archbishop of Bologna, granting certain indulgences, 167. A brief document from the Holy Father Pope Pius VI, granting various indulgences to those who recite the hymn "Veni Creator," 169. A brief document from His Holiness Pope Pius IX, declaring the Church of Saint Andrew in the city of Subiaco to have been and to be a cathedral church, 235. A brief document from His Holiness Pope Pius IX, by which the University of Laval, located in the city of Quebec, is canonically erected, 388. A brief document, granting a plenary indulgence to the faithful of the Diocese of Bruges for the octave of the feast of All Saints, 514. From the Sacred Congregation of the Holy Roman Inquisition. A decree, establishing that confessors in the city of Rome do not require a special faculty from the Vicar General for valid absolution from the censures reserved to the Apostolic See, page 64. A decree, condemning a certain book written by a woman, 117. Dulia, 330. Declarations concerning certain doubts regarding places established for receiving confessions, 550. From the Sacred Congregation of the Index. A decree, prohibiting certain books, page 62. A decree, prohibiting several books, 162. A decree, prohibiting several books, 369. An act, prohibiting certain books, 445. A decree, prohibiting several books, 603. From the Apostolic Penitentiary. Instructions concerning the visitation of seminaries by the Italian government, carried out by its ministers, page 116. Question 314. Doubts concerning the election of the Supreme Pontiff by the Roman people, 371. From the Sacred Congregation of the Council of Trent. Concerning the collation of canonries; in which it is inquired whether, in a collegiate church elevated to the status of a cathedral, the right of patronage remains for the citizens of the place in which that church is located, page 10. Concerning funerals and emoluments; in which it is inquired to whom belongs the right to perform funerals and to receive the emoluments, 23. Concerning removal from a parish; in which it is discussed whether there are grounds to support the removal of a certain priest from his parish, 32. Concerning anticipation of Matins; in which it is discussed whether a certain chapter should be granted permission to anticipate the Office of Matins, 40. Concerning dispensation; in which a dispensation is requested from an irregularity contracted due to strictness, 84. Concerning concord; in which the Holy See is asked to approve a transaction carried out in a certain pious foundation, 86. Concerning deprivation of a benefice; in which it is discussed whether there are grounds to support the decree-

[*Latin ed. p. 671*]

Summa concerning the deprivation of a certain priest from an episcopal benefice, 92. Concerning presentation and institution; in which is discussed whether a bishop is obligated to grant institution to a certain priest presented for a parish benefice, 104. Doubts concerning the privileges of Regular Canons; in which is inquired what should be answered to two doubts

Translated by churchlatin.ai, a product of Boyne Archives

concerning the privileges of Regular Canons, posed by a certain Ordinary, 109. Concerning parochial rights; in which is discussed whether chaplains, who, together with the rector, are to exercise pastoral care, possess equal jurisdiction with the rector, 121. Concerning the dissolution of betrothals; in which is inquired whether true consent was present from both parties for the dissolution of betrothals, 124. Concerning annual payments; in which is contended whether a separated church owes, by custom, a payment to the mother church, about which, in the very act of separation, no mention is found, 137. Concerning the right to suffrage; in which is discussed whether a canon can cast a vote in an election for a prebend to which he aspires, along with others, 144. Concerning the principle of *salus populi suprema lex*; in which is discussed whether the principle of *salus populi suprema lex* can be invoked in the granting of a certain benefice, 190. Concerning a pension; in which is discussed whether a pension imposed with a doubt of abduction and subreption should be paid, 197. Concerning reintegration and the payment of honorarium; it is inquired whether professors of the seminary should be reintegrated into Act 671 in the chair from which they were dismissed, and whether past honorariums should be paid to them, 203. Concerning perpetual curates; in which it is shown, according to the ancient discipline of the Church, and especially from the Council of Trent, that perpetual vicars are to be preferred to those who are removable, 211. Concerning the faculty to bless; it is inquired whether such a faculty should be granted to three bishops, 240. Concerning the examination; it is inquired whether a bad report from examiners and an unreasonable judgment from the bishop were present, 246. Concerning tithes; it is inquired here whether tithes are due to the mother church, which two daughter churches paid to her before they were placed in a diocese different from that mother church, 257. Concerning dispensation from irregularity; it is discussed whether dispensation should be granted in these circumstances, along with those accompanying them, 267. Concerning the right of patronage; it is discussed whether the nomination pertains to a certain patron, or to the Ordinary, by right of devolution, 272. Concerning parochial rights; in which is discussed whether the archpriest and six canons of Massa should exercise jurisdiction and pastoral care in an equal manner, 294. Concerning alms for the second Mass; it is inquired whether a priest could apply the fruit of the second Mass for a person who had given a certain sum of money to the fabric for its celebration, 312. Concerning marriage; it is inquired whether consummation occurred between the spouses, or not, 318. Concerning the conventual Mass; it is discussed.

[*Latin ed. p. 672*]

672. When the Bishop is impeded, or the See is vacant, the most worthy member of the Chapter is obligated to offer the Mass for the benefit of the faithful in general, on the days of the Bishop, 349. Concerning the age

Translated by churchlatin.ai, a product of Boyne Archives

for admission to the Seminary, 358. Regarding the lapse of a pension; in which it is discussed whether a priest loses the right to receive his pension, 396. Concerning distributions; in which it is established that, with the concurrence of a grave necessity for the benefit of the people, chapter members may be excused from their duties in the choir in order to celebrate Masses or administer confessions, 402. Concerning tithes; from which it is clear that, due to the great expenses incurred in the management of the tithe fund, it is advisable, at least for the sake of equity, to reduce the tithe, or to restore the land completely or improve it, 408. Concerning the right to carry the cross; in which it is discussed whether a parish priest has the right to enter the church of another parish priest with the cross raised, 467. Concerning chaplaincies; whether it is permissible for a parish priest to retain a chaplaincy that he obtained as a parish priest, even after he has notified the parish, 479. Concerning sermons; it is asked whether parish priests are obligated, without exception, to preach the word of God on all holy days, 489. Concerning interpretations; it is doubted whether a certain sum of money is part of the *Praebenda Poenitentiaria* (a benefice for penitents), 493. Concerning the *Praebenda Theologica* (a theological benefice); a certain Canon Theologian seeks a solution to some doubts regarding his office, 524. Concerning marriage; it is discussed the nullity of marriage due to abduction, seduction, lack of present consent, and also due to the absence of the moral presence of the parish priest, 530. Concerning parochial rights; it is asked whether Canons, who habitually have the care of souls together with the actual need, require the approval of the Ordinary, after prior examination, in order to validly and licitly administer the sacraments of confession, 550. Concerning jubilees; it is asked whether a Canon who has been granted the indult of a jubilee is still obligated to recite the Conventual Mass in turn, to which he was obligated by the chapter statutes, 558. Doubts concerning dispensations from marriage in cases of necessity, 566. Concerning the Conventual Mass; it is asked whether, due to the small number of canons, the ancient custom of not singing Mass on weekdays during Lent, etc., can be maintained, 584. Concerning the *Postulatum* (a request); concerning the removability of Cathedral Vicars, 588. From the Most Holy Congregation of Bishops, and Regulations concerning Concord or Compromise; in which it is asked whether a certain concord can be maintained between a nun and her relatives, 48. Concerning exemptions; in which it is asked whether a certain Order is exempt from the jurisdiction of the parish priest, 152. Concerning the decree of Pope Pius regarding the cancellation of a mortgage and the restitution of property; in which it is discussed whether a mortgage on a pious legacy, and the respective fruits, can be cancelled, 218. Concerning the rescript on execution...

[*Latin ed. p. 673*]

Regarding the secular parish's conversion into a regular one; a discus-

Translated by churchlatin.ai, a product of Boyne Archives

sion concerning whether a parish should be entrusted to the Carmelites, 361. Concerning the Minor Observants of Saint Francis; a declaration regarding a dispensation concerning travel on railways, 119. Concerning territorial jurisdiction; a question is raised as to which Ordinary should have authority over a town situated on the border between two dioceses, 428. Concerning appointments; a discussion concerning whether an appointment made by a Bishop to provide free sustenance for a certain young man in a seminary can be maintained, 436. Concerning the transfer of a parish; a question is raised as to whether a certain transfer of a parish requested by a parish priest can be granted, 501. From the Sacred Congregation of Rites. A decree concerning the beatification of the Venerable Servant of God, Brother Charles a Setia, a lay brother of the Order of the Minor Observants of Saint Francis, page 66. Ripatransone. Concerning the beatification and canonization of the Venerable Servant of God, Brother Simeon Philippovich, a priest of the Order of the Minor Friars of Saint Francis of the Observance, 164. Naples. Concerning the beatification of the Venerable Servant of God, Januarius Maria Sarnelli, a priest of the Congregation of the Most Holy Redeemer, 165. Naples. Concerning the beatification and canonization of the Venerable Servant of God, Francis Xavier Mary Bianchi, a priest of the Congregation of the Clerics Regular of Saint Paul the First Hermit, 166. Nusco; doubts and resolutions, 227. Acts, volume IX, part II. Acts of Vienna. Concerning the beatification and canonization of the Venerable Servant of God, Clement Mary Hofbauer, a priest of the Congregation of the Most Holy Redeemer, 231. Decisions, 331. Mechlin, decisions, 334. Rome; concerning the beatification and canonization of the Venerable Servant of God, Elizabeth Canori Mora, 336. Rome; or Lucania. Concerning the beatification and canonization of the Venerable Servant of God, John Baptist Cioni, 337. Venice. Concerning the granting and approval of the office and the proper Mass for the manifestation of the Holy Image of Saint Anne among the Britons, 373. A decree, by which an indulgence of 300 days is granted to the faithful of the Archdiocese of Naples for reciting the litanies of the Most Holy Name of Jesus, which are referred to here, 385. A decree, concerning the beatification of the Venerable Servant of God, Francis Mary Paul Libermann, founder of the Congregation of the Most Pure Heart of Mary, 452. A decree, concerning the beatification or declaration of martyrdom of the Venerable Servant of God, Peter Aloysius Mary Chanel, Pro-Vicar Apostolic of Western Oceania, 454. From the Sacred Congregation for the Propagation of the Faith. A decree, by which an Apostolic Prefecture is established in the territory of India, page 447. A decree, by which Isidore Rabot, Prefect of the Missions in the territory of India, is excused, 448. Apostolic Letters, by which the mission of Eastern Bengal

Translated by churchlatin.ai, a product of Boyne Archives

is entrusted to the Congregation of the Benedictine Cassinese Fathers.

[*Latin ed. p. 674*]

Summary 674 of the Acts of the Province of Anglo-Belgium, 449. Apostolic Letters, by which Cudbert Downey is excused from his office as Pro-Vicar Apostolic of the Mission of Eastern Bengal, 451. From the Holy Congregation of Indulgences. The Most Holy Lord Pope Pius IX grants various indulgences to those who recite the Office of the Immaculate Conception, a copy of which is provided for the benefit of the readers, p. 279. A Brief granting various indulgences to those who recite the hymn, *Veni Creator*, 509. A Brief extending to other dioceses the indulgences previously granted for only one day, concerning the Most Holy Scapular of the Most Sacred Heart of Jesus and the most pure Heart of the Blessed Virgin, 511. A Brief granting an indulgence of 300 days to a certain pious society in the Diocese of Firmana, 513. 1 Appendices. Appendix I: concerning the origin and obligations of Canon Law, p. 538. Appendix II: concerning the Sacred Congregation of the Council, its methods of operation, and the manner of proceeding before it, 582. Appendix III: concerning the institution of a perpetual vicar in parishes united to Chapters, 648. Documents concerning Biblical Societies. Document First; containing three letters from the Supreme Pontiff Innocent XIII, p. 515. Document Second; an excerpt from the Sacred Council of Trent, Session 22, chapter 8 and canon 9, 560. Document Third; compiled by the letter of Pope Alexander VII, 561. Document Fourth; containing the propositions of Pasehasius Quesnell, condemned by Clement XI, 563. Document Fifth; which is composed by the Brief of Pope Clement XIII; in which the Roman Ritual published in the French language is condemned, 565. And by another Brief of the same Pontiff; in which the version of the New Testament in the French language is condemned, 566. Document Sixth; containing the entire tenth chapter of Book VI concerning the Diocesan Synod of Pope Benedict XIV, 568. Document Seventh; presenting the Brief of Pope Pius VI to the Most Reverend Archbishop of Florentino concerning the version of the Holy Scriptures, 574. Document Eighth; containing two Briefs of Pope Pius VI to the Archbishops of Gnesen and Mohilov, and also Letters from the Sacred Congregation of Propaganda Fide to the Apostolic Vicars of Persia, Armenia, and other regions of the East. C12. Document Ninth; from the Encyclical Letter of Pope Leo XII, 625. Document Tenth; presenting the Encyclical Letter of Pope Gregory XVI, beginning with « Inter praecipuas », 655.

[*Latin ed. p. 675*]

INDEX GENERALIS CONCLUSIONUM QUAE IN PLERISQUE ACTIS IN HOC VOLUMINE CONTENTIS ADNOTATAE SUNT, QUARUM MATERIA IN SINGULIS ACTIS AMPLE EXPOSITA, VEL DECLARATA REPERITUR. Hae autem conclusiones sub sequentibus verbis comprehen-

Translated by churchlatin.ai, a product of Boyne Archives

duntur:

Angustia loci quoad dispensationes matrimoniales.

Beneficium quoad fundatores.

Canonicus Poenitentiarius.

Canonicus Theologus.

Capellania.

Coemeteria publica.

Compensatio.

Concursus.

Consuetudo.

Decimae.

Distributiones.

Electio.

Episcopi quoad Seminarii Deputatos.

Exemptio a parochi iurisdictione.

Iubilatio.

Iura parochialia.

Iurisdictio territorialis.

Ius deferendi crucem.

Ius patronatus.

Ius suffragandi.

Matrimonium quoad impedimentum raptus.

Matrimonium ratum.

Matutinum quoad anticipationem.

Minores S. Francisci quoad ferratas.

Missa Conventualis.

Missa quoad binationem.

Parochus quoad praedicationem.

Angustia loci quoad dispensationes matrimoniales. Inter causas, quae adhuc uti canonicae habentur pro dispensationibus concedendis super matrimoniis inter consanguineos et affines, apprime recensetur angustia loci, pag. 575. Locus qui ad id angustus dici queat talis esse debet in quo puella, aut innupta manere cogeretur, aut nubere consanguineo vel affini, ut sponsum sibi aequalem vel parem inveniret, ibid. Aequalitas vel paritas inter matrimonio coniungendos erui-

Paroecia quoad remotionem.

Paroecia quoad translationem.

Pensio quoad caducitatem.

Praesentatio quoad beneficium.

Translated by churchlatin.ai, a product of Boyne Archives

Regulares quoad beneficia saecularia.

Regulares quoad privilegia.

Seminaria quoad iuvenum admissionem.

Sponsalia.

Transactio.

Usurpatores quoad bona ecclesiae.

Vicarii perpetui.

tur ex eorumdem statu, conditione, divitiis, aetate, moribus, genio et religione, ibid. Receptum est apud S. Sedem haud haberi angustiam loci, si locus, quocumque nomine appelletur, tercentum foculariorum numerum excedat, ibid. Neque pariter angustia loci desumi potest ex numero focorum loci cuiusvis, vel locorum plurium, qui ad invicem constituti reperiantur infra milliare, ibid.

Beneficium quoad fundatores. Pii fundatores in beneficiis aut Capellaniis instituendis ex iure possunt quaslibet sibi benevisas.

[*Latin ed. p. 676*]

676 Conditions (even those contrary to common law) may be added, provided they are possible and honest, and do not contradict divine and natural law, page 102. These conditions, added by the founders and agreed upon and approved by the Bishop at the time of the foundation, must be religiously observed, ibid. Therefore, such conditions cannot in any way be modified by the Ordinary of the place during the actual erection; because the will of the pious founders, not only cannot be changed for the worse, but also not for the better, ibid. A benefice may be lost due to grave crimes known by law, such as homicide, simony, and perjury; which, if public and notorious, require a public judgment according to the order of law; with the observance of a prior and formal process, ibid. A certain form for acquiring possession of benefices is not prescribed by the Holy Canons, except for prebends and dignities of Cathedrals and Collegiate churches; the possession of which must be obtained capitularly, so that it is not considered lost, ibid. Rule 36 of the Chancery secures the benefice in its possession, which has been peacefully held in a benefice of its own nature immovable, for three years, page 103. Canon of Penance. It is gathered from the Council of Trent, Session 24, chapter 8, and from the Decretals that the revenues assigned for the office of Penitentiar are to be obtained in no other way than under the name of a prebend, page 500. Furthermore, it is derived from canonical jurisprudence that the name "prebend" is given only to that office to which some spiritual duty is attached; while the names "stipendium" and "solarium," although they sound the same as "prebend," are proper to a purely secular office, ibid. Canon of Theology. The Canon of Theology performs his function in no other way than by explaining Holy Scripture, page 529. For, according to the most learned Giraldi, the principal office of

Translated by churchlatin.ai, a product of Boyne Archives

the Canon of Theology is nothing other than to explain and interpret Holy Scripture, ibid. Chapel. An Ecclesiastical Chapel is distinguished from a mere chapel only by name: and for it to be such, two things are required, as in benefices: namely, the decree of erection at the foundation and the canonical Bull of institution at the collation, page 488. For a lay chapel, it is sufficient that the act of the Bishop be added, by which he formally and plainly accepts the same chapel in writing; therefore, for the legitimate acquisition of possession of this, the intervention of ecclesiastical authority is not prescribed, ibid. The canonical erection for constituting an ecclesiastical chapel is of such importance, according to the Decretals, that it alone is sufficient to establish the distinction between a lay chapel and an ecclesiastical chapel, ibid.

[*Latin ed. p. 677*]

There are also other characteristics which seem to more closely define the nature and essence of an ecclesiastical chaplaincy, such as a stipend, a title, a designated church, and the obligation of clerics to celebrate Mass themselves, ibid. A chaplaincy which possesses these same characteristics of ecclesiastical benefit can be entirely equated with such a benefit; therefore, it becomes perpetual and immovable, since the principal characteristics of an ecclesiastical benefit are perpetuity and immovability, ibid. A lay chaplaincy, by its very nature, as stated by Cardinal De Luca in *De Beneficiis Dispositivis*, 80, n. 10, is also perpetual; and the chaplaincy itself cannot be removed. A chaplain can be removed only for a grave reason, ibid.

1. Public Cemeteries. The newly established public cemeteries have not abolished the right of burial, but only the place of burial has been materially or physically changed, page 31. Churches which possessed the right of burial now, with the establishment of public cemeteries, enjoy that right, namely, the right to bury bodies in the public cemeteries, which previously could be buried in their own burial grounds, ibid. For public cemeteries have taken the place of the individual burial grounds of the churches, for the sake of public health; therefore, churches which possess the right of burial also seem to possess the faculty of performing funeral rites, ibid. Therefore, it is not necessary to possess a private and distinct place in a public cemetery in order to be said to enjoy the right of performing funeral rites, if one already possesses the right of burial in one's own church, page 28.

2. General 677. However, the right of burial and of performing funeral rites cannot be presumed; but must be proven by legal proof, that is, by those means which the law prescribes, ibid. If a question arises regarding the choice of burial, which confers the right of performing funeral rites to a certain church, such a choice must be legally demonstrated; and since the right arises from a fact, that fact must be clearly and certainly demonstrated,

Translated by churchlatin.ai, a product of Boyne Archives

ibid.

3. Compensation. Compensation, according to Roman law, is not a part of Roman law; but is the debtor's will and natural intention, that from the time that the creditor owes something in return to him, he be released from other debts, page 226. Compensation is the contribution of debt and credit to each other, ibid. Therefore, the right itself does not introduce compensation, except according to the presumed will of the one whose interest it is; thus expressing and confirming that common human desire, ibid. From several decisions of the Sacred Roman Rota, the following principle is derived: that interest must be paid by title of damages by the one who retains the money which should have been invested, ibid.

4. Concursus. Examiners must be just and upright in carrying out the examination, and must also be judges of doctrine, but it is necessary that those who are most suitable for the task be inquired into, namely, those who are distinguished by their moral integrity, their labors, their previous service to the Church, and other qualities necessary for the proper performance of the duties of a parish priest, page 256.

[*Latin ed. p. 678*]

Index 678. For it can happen that, solely considering doctrine, someone more learned in letters may be appointed to the leadership of the Church, even though, in other respects, he is less suitable or even unworthy; and someone, though less deserving in terms of doctrine, who excels in other qualities, may be excluded. Therefore, the examiners must, after having considered doctrine, also consider other qualities and virtues conducive to the governance of souls, which are closely associated with doctrine, and, through votes, reject the unsuitable and present the suitable to the Bishop. The Bishops, in turn, must choose from among those presented as suitable, the one whom they judge to be most fitting among the others. Once such a judgment has been made, the presumption of the Bishop's sound judgment is so strong that it must be evident that those who have been chosen have not proceeded with the pre-selection through deceit or fraud, or through undue affection; indeed, the Tridentine form must have been disregarded. Furthermore, after a competition for some benefice before the Bishop and the examiners, it is possible that those same individuals may prefer the one who excels in knowledge, rather than the one who appears more suitable in prudence and morals for governing the Church. Custom. Custom, which surpasses the memory of men, has the force of law, or the will of a pious testator, provided it is supported by good faith and a just title; especially if it originates from a time when such a custom was observed by contemporaries, who could have opposed it but did not, page 23. Tithes. Those who refuse to pay tithes, or who prevent others from paying them, are excommunicated according to the Council of Trent, Session 25, canon 12, concerning the refractoriness, and they cannot be absolved from this

Translated by churchlatin.ai, a product of Boyne Archives

crime unless full restitution follows, page 266. Parishioners are bound to pay tithes to their own parish priest because of the administration of the Sacraments; or even to a different parish priest, provided that the tithes are due to him, either by privilege or by an ancient custom, ibid. Churches that are filial are bound to pay tithes to the mother Church, whenever the mother Church retains at least a part of the ancient rights (as a sign of its full jurisdiction) and has the right to collect tithes over them, either by privilege or by an ancient custom, ibid. However, it is required that both the mother and filial churches be subject to the same Episcopal authority, and within the limits of the same Diocese, so that the mother church has the right to collect tithes from the filial churches, although, in other respects, that right is certain and very ancient, ibid. The diversity of Dioceses breaks all ties of reciprocity; and removes all notions of superiority and subordination with regard to the parish priests of one Diocese towards the parish priests of another Diocese, ibid. Therefore, no ecclesiastical person has the right to collect tithes from ecclesiastical persons of another Diocese.

[*Latin ed. p. 679*]

Index concerning the statement "because it seems exceedingly difficult that one Church should receive tithes from another, since, from this, the boundaries of the diocese appear to be undeservedly blurred," ibid. Then, new lands are brought under cultivation, when places are subjected to agriculture for the first time, page 418. New types of cultivation can in some way be equated with these new lands, which are introduced in our times into fields previously cultivated but now exhausted, with great expense and labor, ibid. Tithes are not due when, in a property, an annual payment or canon, however small, has already been established in place of the tithe, ibid. Distributions. The obligation to attend Divine Offices for Canons is such that, unless with the legitimate permission of the superior and for serious reasons, they may be excused from it, page 107. Nor does any existing custom provide assistance in this regard; because the reason for celebrating private Masses or hearing confessions during Divine Office is not new and special, but general, and foreseen and disapproved by law; therefore, it cannot be considered a valid reason to excuse absence from the choir, ibid. Only three legitimate reasons for absence are admitted, namely those enumerated in the decree of Boniface VIII, ibid. Election. The elector is not bound to choose the more worthy, provided he chooses someone worthy, in whom the extreme requirements of common law or of a special law founded on general principles are met, page 445. Bishops also have the power, among those approved, to choose someone for theological or penitential duties, or even for a parish, whom they judge, by their prudent judgment, to be more worthy, even if the examiners have declared someone else to be more suitable, ibid. The Bishop concerning Seminary Deputies. Ordinary pastors are bound, according to the jurisprudence of the Holy

Translated by churchlatin.ai, a product of Boyne Archives

Canons, to consult with the Seminary Deputies regarding the administration of the same Seminary, page 210. However, if the Ordinary pastors are required to seek such advice, they are not bound to follow it, because the Seminary Deputies have an advisory vote, and certainly not a deliberative one, page 211. It is deduced from several resolutions of the Holy Congregation that the election of teachers in Seminaries constitutes an act of administration of such places, ibid. Therefore, the Seminary Deputies must be consulted regarding the election and removal of these teachers, so that it can be said to have been a valid act, ibid. Exemption from the jurisdiction of the Parish Priest. It is deduced from the jurisprudence of the Holy Canons that a parish priest has, by common law, a certain jurisdiction and his own rights over all those who live within the boundaries of his parish, page 161. However, all Orders are exempt from the jurisdiction of the parish priest.

[*Latin ed. p. 680*]

Index 680: Monastic orders, by privilege granted to them by the Holy Canon, ibid. However, not all orders indiscriminately enjoy the privilege of such exemption; but only those who pronounce the three solemn vows, are bound by enclosure, and have obtained approval from the Holy See, ibid. Therefore, if one or the other of these requirements is lacking, the exemption is absent, according to the strict interpretation of Trent; so that all matters may return to their principles, and the pastors and bishops may fully exercise jurisdiction over all subjects, ibid. Every religious community possesses such an exemption either by its very nature, or by a special privilege obtained from the Holy See, or by an ancient and well-established custom, page 162. Jubilation. The obligation of celebrating Masses in turn appears to be accessory and dependent on the service of the choir; thus, a canon who is exempted from the service of the choir by a grant of jubilation, is no longer bound to the rotation of Masses, page 565. It is the nature of an accessory to follow the principal; therefore, if the principal does not exist, neither does that which follows it, ibid. By the grant of jubilation, the pious Church imitates what is customary in temporal service; for a soldier, having received his pay, lays down his arms and enjoys rest after the labors of his life, page 570. The general custom of such jubilation (which is strengthened by the practice of the Holy Congregation) is attested by Benedict XIV in Synod. Dioec. lib. 13, cap. 9, n. 15, ibid. Capitular constitutions, lacking papal approval, cannot exercise such force as is contrary to either the decrees of the Roman Pontiffs, or to the general discipline of the Church, page 566. Although it is permissible for everyone to renounce a right in their favor; nevertheless, this does not apply when the same right concerns the public order; because public law cannot be changed by the will of private individuals, ibid. Parochial rights. In questions concerning parochial rights, the extension and distribution, the foundation

Translated by churchlatin.ai, a product of Boyne Archives

and legitimate custom must be considered, page 129. If a possessory judgment has been instituted, the last state of affairs prevails, ibid. Although there are examples where parochial rights belong to several in solidum, they do not correspond to the institution of the Church; and these have become obsolete since the Council of Trent, especially for this reason, so that questions may not arise concerning the validity of marriages, ibid. The Holy Congregation has consistently followed this rule, provided that the laws and customs of the foundation do not clearly oppose it, ibid. In cases concerning the extension and exercise of parochial rights, the norms for judgment must be drawn from the foundation, from the constitutions, and from legitimate custom, page 311.

[*Latin ed. p. 681*]

Index: Nothing prohibits that the habitual care in Cathedral or Collegiate churches remain with the Chapter, while the actual exercise of that care is independent of the Chapter's dignity, ibid. After the Council of Trent, the Holy See's Congregation preferred this arrangement, whenever the particular laws and customs of the foundation did not explicitly object, in order to remove confusion and doubts, especially concerning the validity of marriages, ibid. For Chaplains or Sacristans who are to exercise a parochial ministry, the mere nomination by the Chapter is not sufficient; but the express approval of the Bishop is necessary for them, page 312. To demonstrate parochial rights, possession in the administration of the Sacraments has always been considered the most important proof, ibid. Whenever the question of the rights of a certain priest to hear confessions is raised, the first thing to consider is whether the priest has jurisdiction; for, besides the remote power of Holy Orders, the proximate power of jurisdiction is required, so that any priest may validly and lawfully receive confessions. For the sacrament of Penance contains judgment and sentence, which can only be imposed on those who are subject to the judge; and those who are not under jurisdiction are not considered subjects; therefore, jurisdiction is necessary, p. 557. This jurisdiction, unless it is ordinary or delegated, cannot in any way be supplied, ibid. The Canons of a Cathedral Church do not have ordinary or delegated jurisdiction, even if the church is under their care, and the habitual care remains with the Chapter, ibid. Nor are those Canons said to have jurisdiction, to whom the exercise of the care is demanded for a certain number of years by the Chapter. In this case, the care of souls, and the rights of the parish, are never separated from the Chapter, and the Canons, chosen by the Chapter to exercise the care, are like temporary vicars, removable at the will of the Chapter, to whom only the administration of the care is entrusted, ibid. Canons of a Cathedral Church under care cannot be effective in matters prescribed by the Council of Trent, Session 23, Chapter 15, on Reform, ibid. Territorial jurisdiction. Since, by special privilege, the assignment of a diocese belongs to the Ro-

Translated by churchlatin.ai, a product of Boyne Archives

man Pontiff, therefore Bishops cannot alter the limits of their own diocese, nor allow others to change them, p. 435. On this matter, the Council of Cartagena also ordered that no Bishop should usurp the rights of others, nor should any Bishop overstep his colleague in the diocese, ibid. Dioceses cannot be altered by royal discord, by which the borders of kingdoms are often changed; nor by a partial alteration of secular jurisdiction in any province of a kingdom; and because the Church of God is exempt from civil jurisdiction, ibid. The place where the dispute arises as to which diocese is subject to which, must be considered to belong to that diocese to which

[*Latin ed. p. 682*]

682 An index is found in the parish, in which those who have a stable dwelling reside, and in which the inhabitants of that place receive the sacraments, page 436. The place of domicile of a person is that in which he dwells, both in fact and in intention, and in which he maintains his family and the sum of his possessions; not, however, the place to which he goes for the sake of cultivation, even though he may have a dwelling there: and furthermore, a single house does not constitute a domicile in a foreign territory, ibid. The right to carry the Cross. To proceed publicly or privately, with a Cross held aloft before one, does not merely signify honor, but also jurisdiction; and especially that of the Prelates of the Holy Roman Church; such as are Patriarchs, Primates, and Archbishops, page 478. Therefore, it is also permitted to Parish Priests to conduct solemn processions with a Cross held aloft within the boundaries of their own parish, but not in other parishes; for when they are outside their own territory, they cannot exercise any jurisdiction there, ibid. Neither does the status of being a mother church entail the right to enter, with a Cross held aloft, into daughter churches, since this is by no means noted among the signs of honor reserved to the mother church; especially with regard to Regular churches, which are exempt, ibid. Nor can this be accomplished by custom; because the rights of parish priests, as they are due to a group, and not to an individual, cannot be prescribed by contrary custom, unless it has been clearly proven for a hundred years, but are inviolably maintained, page 479. The General Council of Trent, Session 25, chapter 13, commands Bishops to settle all disputes concerning precedence, which often arise to the scandal of ecclesiastical persons, ibid. The right of patronage. The right of patronage, whether active or passive, which arises from the will of a pious testator, and by Apostolic concession, is based on a twofold foundation: and it remains intact in the change of the status of a collegiate church to a cathedral church, if it can be adapted to the new, more noble status of the church, page 22. The will of the pious testator (if it appears less clear from the documents, or has been obscured by the passage of time) may also be deduced from this addition, for example, if certain concessions remain, which appear to have been granted by the Holy See in accordance with that

Translated by churchlatin.ai, a product of Boyne Archives

intention known to him, ibid. The passive right of patronage has the same value as the active right; which, indeed, cannot be extinguished by general clauses, but requires an express derogation in order to be invalidated, ibid. General clauses only invalidate the favors and privileges of a suppressed collegiate church, and those which are not compatible with the new, more noble status of the cathedral church, but not the rights acquired by third parties, ibid. The Sacred Canons grant to a lay patron only four months to present [a candidate]; which period begins to run from the day on which the patron has certain knowledge of the vacancy of the benefice, page 278. After the expiration of such a four-month period,

[*Latin ed. p. 683*]

Index, whether due to the negligence of the patrons, or because the patrons have not been able to meet together, and a dispute arises among them, the collation of the benefice for that occasion devolves to the one to whom the institution pertains, ibid. However, according to the Decrees, it seems that the benefice does not devolve to the Bishop, even after the period of usefulness has elapsed, whenever a dispute arises among the presentees, or even among the patrons and the presentees, ibid. The spirit of the Sacred Canons, with regard to such a limitation of time for the patrons, refers to this, so that the Church may not have more vicars who are left without a parish, to the very grave detriment of those churches, ibid. The right to vote. It is certain from Canon Law that Canons cannot be deprived of the right to cast votes, since this is proper to Gallia, page 151. However, this must be understood from the Decrees, so that it is not permissible to completely deprive Canons of this right; although it is permissible to limit that right within certain limits, due to some suspicion, which is not disapproved of by law, and in some cases, the Canons may not even enjoy the voice of the chapter, ibid. Therefore, it was rightly decreed by the Sacred Council of Trent that Canons, concerning whose special business was being discussed, should withdraw from the chapter until the matter had been discussed, ibid. Therefore, it seems that a Canon can cast votes in a public election; because, being nominated by others, he can yield to the general election without any vice of ambition, ibid. However, this right is denied to him in a secret election: because, since he does not know whether other Canons are competing with him, it would seem rather that he is choosing himself out of ambition, than consenting to the election of others, ibid. Marriage with regard to the impediment of abduction. Abduction, in order to dissolve a marriage, must be accomplished by violence, or by open force, that is, by violently abducting a woman, as the cause for entering into marriage, and not by any other means, page 549. Abduction by subornation or seduction is lacking in canonical jurisprudence; and it remains among some theologians, especially in Gallia, ibid. Valid marriage. It cannot be doubted that the Supreme Pontiffs possess the power, received from Christ

Translated by churchlatin.ai, a product of Boyne Archives

in Saint Peter, of resolving valid marriages; and although the same authors who doubt this power admit that the Holy See has often dispensed in such marriages, page 329. Indeed, if the Supreme Pontiff has ever dispensed in valid marriages, to doubt his power would be like sacrilege; because it would be the same as reproaching Christ for not having sufficiently provided for the Church, ibid. However, causes must be present in order to obtain a dispensation in a valid and unconsummated marriage; which suggest and justify such a resolution, ibid. Among the other causes, which are mentioned in the Decrees, is disease.

[*Latin ed. p. 684*]

684 An infectious condition, by which a man or woman is afflicted; so that, according to the judgment of physicians, there is a notable danger of infection arising from their carnal union; or, a healthy part is so affected by the cohabitation that it becomes morally impossible: for there is no obligation regarding impossible things, ibid. Grave disagreements between spouses, which are likely to have no end, and a serious fear of great scandal with the danger of eternal life, are considered among the causes for granting a dispensation concerning only valid marriages, ibid. It is derived from the Sacred Congregation that favorable proofs for a valid marriage are not weakened by the fact of the spouses cohabiting for some time in the same house: and sometimes these same proofs have been admitted without a physical examination of the woman, ibid. For obtaining a dispensation concerning a valid marriage, there must be a conclusive proof of the non-consummation of the marriage; and, furthermore, a serious reason is required, which suggests such a dispensation, page 329. Matins concerning anticipation. Canons are not obligated only to recite Matins and Lauds, but are also bound to fulfill this obligation within the time prescribed by law; and that not only must what is fitting be done, but in the manner in which it is fitting, page 47. The time prescribed by the Canons for the recitation of the Canonical Hours in the choir, in order to properly perform them, begins from midnight and ends at the following midnight, ibid. However, according to a reasonable cause, a more suitable variation may be instituted; both concerning Matins and concerning the recitation of Lauds in the choir, by a special privilege, granted by pontifical indult, ibid. Among the causes for which the privilege of anticipating Matins is often granted, are inclement weather, the harshness of the region, and the advancing age of some of the Canons, ibid. A pontifical indult conferring such a privilege is sometimes perpetual, sometimes temporary, according to the cause, whether temporary or perpetual, that was presented, ibid. Temporary causes are subject to variation; the small number of servants, the advancing age of some of the Canons, and their declining health, as well as the necessity of administering the Sacrament of Penance by the Capitulars, ibid. Therefore, a pontifical indult is not usually restricted by

Translated by churchlatin.ai, a product of Boyne Archives

any time limit, if the cause of the concession is of a perpetual nature, such as inclement weather, the harshness of the region, and the mountainous location, ibid. Minor Franciscans concerning railways. It is permissible for the Franciscan brothers to travel on railways; and this is in no way included under the prohibition of the Rule, as an avoidance, page 427. For steam-powered carriages cannot be equated with...

[*Latin ed. p. 685*]

Index concerning riding or carriages, of which Saint Francis speaks in his Rule, since they do not in any way pertain to the nature of these things, ibid. It cannot be said that Saint Francis forbade his brothers from traveling by steam-powered vehicles, or that this was derived from the fact that such a method of travel was unknown to him, ibid. For it is clear that nothing was intended except what is known; nor can a law bind beyond the intention of the legislator: since every obligation of the law depends on the serious will of the legislator, duly made known to the subjects, page 427. Furthermore, Saint Francis did not order his brothers to travel on foot; but only decreed that they should not ride unless they are compelled by manifest necessity or infirmity, ibid. Therefore, when a new obligation is discussed, it must be remembered that Benedict XIV taught: "Bonds should not be imposed if there is no clear law that imposes them," L Jfi, ff. de obi. ct act. where the question of obligation is discussed, we should be more inclined to deny, ibid. It can also be inferred that if Religious Franciscans are not forbidden from traveling in steam-powered vehicles, nor is infirmity or manifest necessity required for this, as in the case of carriages; nevertheless, a rational reason is required, with the prudent permission of Superiors, so that no scandal arises from disorderly use, ibid. Conventual Mass. It is established from the resolutions of the Holy Roman Congregation that the pontifical Mass on the most solemn days of the year, 685 days, pertains to the highest dignity, or to others if they are present, provided that the Bishop is absent, or is hindered, page 357. Indeed, the Sacred Congregation has often responded that if the highest dignity, or other dignities, are hindered, the pontifical Mass should be celebrated by the Canons, starting successively from the oldest, ibid. From the Sacred Congregation, it is inferred that the prescription which imposes the burden of the more solemn celebration does not also carry with it the obligation of applying the Mass, ibid. For if such a celebration of Mass were to carry with it the burden of application, the higher-ranking person would suffer a double disadvantage, while the weekly priest would receive every benefit, ibid. From this, it would also follow that the weekly priest, or the one to whom the burden of applying the Mass belongs, would be excused from the obligation of applying the Mass which he is required to celebrate before or after the pontifical Mass: but the higher-ranking person would have the burdens imposed upon him both of performing the pontifical Mass and of applying the Mass, ibid.

Translated by churchlatin.ai, a product of Boyne Archives

Mass concerning double celebrations. It is not permitted to any priest to celebrate two Masses on the same day, if another priest can be found who can adequately serve the needs of the people, page 245. Therefore, in order that a priest may be permitted to celebrate two Masses on the same day, canonical reasons must be present which induce some necessity, ibid. Such a necessity must be of such a nature that, unless some priest celebrates two Masses on the same day,

[*Latin ed. p. 686*]

686 An index of faculties should be granted, lest the Church's mandate be unfulfilled, ibid. Likewise, such a necessity must indeed be considered true, but it is a moral necessity, and not an absolute one; therefore, it must be judged with prudent discernment, considering the circumstances surrounding it, ibid. It is not fitting for Ordinaries, upon whom the burden of judging the gravity of cases rests, to be excessively anxious about this matter; lest the faculty of granting dispensations seem to be rendered virtually inoperative in almost every case, ibid. The formulas and conditions by which such a faculty is granted by the Holy See are intended solely to prevent its abuse by anyone, but to ensure that it is used prudently in all circumstances, page 246. Therefore, with all abuse removed, Ordinaries may use the faculty granted to them whenever they deem it necessary in their conscience and charity, or when they believe it to be greatly beneficial to the faithful, ibid. The Roman Pontiffs have strictly prohibited the repetition of Mass on the same day, lest an opportunity be given to foster the greed of some priests; who might offer more sacrifices solely for the purpose of collecting more alms, page 317. Therefore, it is also derived from the practice of the Sacred Congregation that, under any title or pretext, or in any circumstance, alms for a second Mass must not be accepted in any way, page 318. The parish priest concerning preaching. Parish priests, according to the prescription of the Council of Trent, Session 5, chapter 2, de ref., are obligated, either personally or through others, if they are legitimately impeded, to deliver a sermon to the people on Sundays and solemn feasts, page 493. No custom contrary to this can be admitted; because, by divine precept, parish priests are obligated to feed the flock entrusted to them with the preaching of the Word of God, on Sundays and solemn feasts, ibid. Therefore, such a custom must be considered unreasonable and of no value, because the Council of Trent, Session 5, chapter 2, de ref., rejected it with these words: "nor can any custom impede the execution of this decree," ibid. However, it is left to the judgment and prudence of the Ordinaries to sometimes dispense from this obligation, especially when there is a reasonable cause, ibid. The parish concerning removal. A canonically instituted parish priest cannot be penalized by removal, unless for a canonical cause, and with the proper legal procedure observed, page 39. "Levity," and other similar reasons, do not provide a reasonable cause

Translated by churchlatin.ai, a product of Boyne Archives

for the removal of an immovable parish priest, page 40. The removal of a parish priest may sometimes be justified due to the aversion of the people or the incompetence of the priest, ibid. The parish concerning translation. According to the Council of Trent, in order to carry out the translation of a parish church, it is required that the church itself, whether through age or other causes, has collapsed, and cannot be restored due to lack of resources, page 507. Therefore, such a translation is usually granted by the Holy See as a remedy.

[*Latin ed. p. 687*]

Index of extraordinary cases; namely, that the Bishop has first tried all other remedies without success, ibid. And thus, the remedy of translation is extraordinary, so it is not usually granted unless the Bishop has first endeavored to restore the parish from its own fruits, and if these are lacking, unless he has first called upon the patrons themselves, and those same parishioners, and compelled them by all suitable means to do so, page 508. In order for a new parish to be established, grave and evident causes are required from Trent, such as the distance of the places, and the great difficulty, due to dispersed roads, in accessing the parish for the faithful, ibid. Indeed, the supreme and principal rule by which the erection of a new parish church is granted is this: that the eternal salvation of the Christian faithful is not endangered by grave difficulties in receiving the Sacraments and attending divine services, ibid. Pension regarding its duration. Ecclesiastical pensions can be lost by the same crimes by which benefices are lost, and because they are governed by the same law at that time, page 401. Any crime does not necessarily entail the loss of benefices; but only those crimes which are expressly mentioned in the law, such as simony, heresy, forgery of Apostolic letters, and others mentioned in the law, ibid. From the opinion of the Doctors, it is understood that he who is excommunicated by major excommunication is not only deprived of the fruits of the benefice, but also of present pensions, ibid. However, he is not, by the law itself and by the fact of such deprivation, subject to such penalties; rather, these deprivations must be declared by the ministry of a judge, ibid. The Supreme Pontiffs have not declared that the loss of fruits is incurred in the same way as the loss of the communion of the faithful; but only that a major excommunication provides a sufficient reason for the loss of those revenues, ibid. Presentation regarding a benefice. In order for a presentation to be perfect and to have its intended effect, it must be made by the presenter and actually exhibited to the Ordinary; it is not sufficient that the letters of presentation have been legitimately dispatched and received, page 108. According to the norm of the Council of Trent, Session 24, chapter 18, regarding reforms, a prior examination is required in due form for the institution; so that if this is lacking, no institution shall be made, especially in parochial benefices, ibid. The Ordinary has the power, according to the

Translated by churchlatin.ai, a product of Boyne Archives

Doctors, to accept the presentation of an absent person, if he is otherwise known to him, because the law requires only physical presence for the purpose of undergoing the examination regarding the presentation, ibid. He who has the power to institute must first give the institution juridically to the person presented, both in secular and ecclesiastical benefices, ibid. By notable delay, or by unreasonable refusal of the institution, the patronage is harmed.

[*Latin ed. p. 688*]

688 The rights of those newly presented are investigated; injury is inflicted upon the reputation of the one presented, and grave danger threatens souls, if the benefice is a parish, ibid. The jurisprudence of the Sacred Canons admits of an appeal to the Holy See, whenever he to whom the institution pertains either unduly delays, or openly refuses to grant the institution, ibid. Regular clergy concerning secular benefices. Regular clergy, with a prior Apostolic indult, and with just reasons present, can obtain secular benefices, with the care of souls, page 368. Indeed, from the earliest times of the Church, it has been granted by the Holy Pontiffs that parishes could be obtained by Regular clergy; who, by gravity of morals (as Pope Siricius said), and by the institute of life and faith, are recommended above others, page 369. Therefore, the axiom "regular benefices are to be conferred upon regular clergy, secular benefices upon secular clergy" should be understood to refer only to simple benefices, ibid. Furthermore, from the jurisprudence of the Canons, it is gathered that, just as Regular clergy are capable of benefices which have the care of the external forum; because they can be drawn into the episcopate; so, according to the opinion of DD., they are capable of benefices which have only the care of the internal forum, such as parishes, ibid. To this is added that various Councils, and especially the Council of Trent, admit and regulate the practice of conferring parishes upon Regular clergy; and Pope Pius VI, in his Bull "Auctorem fidei," has condemned as false and pernicious the opposing opinion, ibid. Unions of secular benefices with monasteries can be made in two ways. 1.° concerning temporal matters, namely when the tithes and revenues of the parish, with the right of presenting a rector to the monastery, are transferred, leaving the right of institution to the Bishop; 2.° with full right, when, besides the temporal matters, the care of souls is transferred to the monastery, but the abbot of the monastery is considered to be the principal rector, ibid. Regular clergy concerning privileges. Regular clergy living outside the cloister, due to necessity, can be equated with secular priests; therefore, they cannot be entirely exempt from the jurisdiction of the Ordinary in the place where they live, page 115. Therefore, in these circumstances, although they must be subject to their own superiors concerning regular discipline, and the obligations arising from regular discipline, and with the new status being compatible"; concerning, however, ecclesiastical polity and discipline, they

Translated by churchlatin.ai, a product of Boyne Archives

must be subject to the jurisdiction of the Bishops, ibid. Hence, also, some Bishops can relax censures against Regular clergy who are contumacious and delinquent living outside the cloister; and this not as judges, but as executors of the law, or as delegates of the Apostolic See, ibid. Ordinaries can also regulate, for these Religious living outside the cloister, the faculty of celebrating the Holy Mass, of hearing the confessions of the faithful, and of preaching the Holy Gospel, ibid.

[*Latin ed. p. 689*]

Index Seminaria concerning the admission of young men. A young man must be twelve years of age in order to be admitted to the Seminary without charge, according to Tridentinum, Session 23, chapter 18, concerning provisions, page 445. Furthermore, it is gathered from a recent resolution of the Sacred Congregation that a young man to be supported by the expenses of the Seminary does not need to have already completed twelve years, but it suffices that he has reached his twelfth year in order to be received into the Seminary, ibid. Marriages. In order that marriages may be rightly dissolved, the same requirements must be present as were present in the consent that bound them, page 136. For the method observed in granting must also be observed in revoking, and the contract is contained by the same rules by which it was established, ibid. Therefore, just as true, deliberate, and mutual consent must be present in order to validly contract a marriage, so the same conditions must be present in order to dissolve it, page 137. Transaction. For a strict and proper transaction, more conditions must be present, besides necessity and utility, especially if it concerns a pious cause, page 91. First of all, it is required that the transaction be made concerning a doubtful matter: in order to distinguish it from agreements, which are usually made concerning a certain and unquestionable matter, ibid. Therefore, if at the time of the transaction, it was known to the party transacting that he had no right in the matter, no transaction results, and whatever has been received for the same transaction must be returned from conscience, ibid. It is also required that the transaction be made concerning a dispute that is uncertain and not yet defined; and that, after a sentence has been pronounced by a judge, without any appeal, it passes into a matter that is judged, which is accepted as truth, so that the dispute is no longer uncertain, ibid. Furthermore, it is necessary that a strict and proper transaction not be made gratuitously; but that some burden be given and retained from it, promised or remitted, in order to distinguish it from an amicable settlement, which is made gratuitously, page 92. A transaction concerning a religious matter is equivalent to an alienation according to Canon Law; therefore, just as such an alienation cannot be made by private authority, so neither can a transaction, ibid. The Holy See sometimes grants ratification to transactions concerning pious causes, in order to eliminate disputes and quarrels, which are most often the cause of great expenses and annoyances,

Translated by churchlatin.ai, a product of Boyne Archives

ibid. A formal transaction, concluded in good faith, cannot be rescinded by any agreement, page 143. The transaction is maintained even if, afterwards, an instrument is found, which, if it had been known beforehand, would not have allowed the transaction to take place, ibid. Usurpers concerning the goods of the Church. The Council of Trent subjects all of them to anathema who, under any pretext, have seized the goods, property, rights, or revenues of any Church, or have dared to prevent their restoration.

[*Latin ed. p. 690*]

Index 690: Those who are rightfully entitled to receive [something] shall receive it, page 197. Such usurpers remain under anathema as long as the aforementioned goods, possessions, and rights are not fully restored to the Church or its administrators, and then they obtain absolution from the Most Holy Pope, ibid. Furthermore, patrons of a church who presume to do all these things, in addition to the aforementioned penalties, are themselves deprived of the right of patronage, ibid. "Perpetual" vicars. According to the teaching of the Sacred Canons, perpetual vicars, besides being removable, have always been recommended, page 217. After the decrees of the Council of Trent, removable vicars have become obsolete, because experience teaches that perpetual vicars are more useful to the souls of the faithful, ibid. Nor is the exercise of pastoral care better recommended by alternating between the canons of cathedral or collegiate churches, ibid. Vicars ought not to be temporary but perpetual; and this is gathered from the fact that vicars are pastors; indeed, a perpetual pastor knows his flock better than a temporary pastor, p. 598. Therefore, canonists believe it is advisable that the Holy See should decree that the chapters of cathedrals and collegiate churches should be obliged to appoint perpetual vicars, so that, through temporary vicars, they may exercise the care of souls, ibid. The practice of the Sacred Congregation has prevailed so that the chapters of cathedrals and collegiate churches, to whom the care of souls is entrusted, are obliged to exercise it through perpetual vicars, ibid.

Translated by churchlatin.ai, a product of Boyne Archives